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(Continued inside)

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Contents

(Continued on next page)

List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1971, and specifies how they are affected.

3 CFR

PROCLAMATION:
4094 21805

7 CFR

910 (2 documents) 21817
PROPOSED RULES:
930 21818
1124 21819

12 CFR

225 (2 documents) 21807, 21808

14 CFR

71 21808
PROPOSED RULES:
39 21833

21 CFR

135b 21808
135c 21809
191 21809
PROPOSED RULES:
295 21832

29 CFR

545 21810
681 21810

32 CFR

155 21815

41 CFR

4–12 21815

42 CFR

PROPOSED RULES:
90 21833

46 CFR

380 21816

47 CFR

PROPOSED RULES:
74 21835

49 CFR

173 21817
PROPOSED RULES:
192 21834

50 CFR

32 21817
33 21817

Presidential Documents

Title 3—The President

PROCLAMATION 4094

National Farm-City Week, 1971

By the President of the United States of America

A Proclamation

More than at any time in our history, it is apparent that the quality of life in America tomorrow will greatly depend upon balanced growth in our Nation today.

The flourishing of agriculture upon our shores has been one of the greatest success stories in the history of man, and today Americans are the best fed people the world has ever known.

Yet average family income in non-metropolitan areas is 22 percent below that of metropolitan areas, and growing numbers of people have left rural America to seek fresh opportunity in the city. With this vast migration has come not just industrial progress, but also a host of new social and economic problems. Many of our cities are becoming less and less governable.

Only through balanced growth in both our rural and urban areas can we weather this gathering storm. It is time for all Americans to realize that we must have a strong rural economy in order to achieve orderly and beneficial urban growth.

In recognition of this need, I, RICHARD NIXON, President of the United States of America, do hereby designate the week of November 19 through November 25, as National Farm-City Week and call upon all citizens wherever they live to participate in this observance.

I request that leaders of agricultural organizations, business groups, labor unions, youth and women's clubs, schools, and other interested groups, focus their attention upon the interrelationship of urban and rural community development.

I urge the Department of Agriculture, land-grant educational institutions, and all appropriate organizations and Government officials to mark the significance of National Farm-City Week with public meetings, exhibits, and presentations for the press, radio, and television.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of November, in the year of our Lord nineteen hundred seventy-one, and of the Independence of the United States of America the one hundred ninety-sixth.

[FR Doc.71-16765 Filed 11-12-71;4:15 pm]

Rules and Regulations

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Y]

PART 225—BANK HOLDING COMPANIES

Nonbanking Activities of Foreign Bank Holding Companies

By notice of proposed rule making published in the FEDERAL REGISTER on June 23, 1971 (36 F.R. 11944), the Board of Governors proposed to implement its regulatory authority under section 4(c)(9) of the Bank Holding Company Act to exempt foreign bank holding companies from the prohibitions of section 4 of the Act with respect to certain of their nonbanking activities and interests in the United States.

Following consideration of the comments received, the Board has determined that it would be consistent with the purposes of the Act and in the public interest to permit foreign bank holding companies (1) to engage, directly or indirectly, in nonbanking activities in the United States that are incidental to their activities outside the United States, (2) to own noncontrolling interests in foreign companies engaged in nonbanking activities in the United States if those companies do more than half of their business outside the United States and do not engage in underwriting, selling, or distributing securities in the United States, and (3) with the consent of the Board, to invest in companies that are principally engaged in the United States in financing or facilitating transactions in international or foreign commerce. The Board has also confirmed exemptions for foreign bank holding companies with respect to their direct nonbanking activities outside the United States and their ownership of shares of stock in a bona fide fiduciary capacity.

In the case of activities or investments that do not meet the foregoing standards, a procedure is established whereby a foreign bank holding company may apply to the Board for special permission to engage in activities or retain or make investments subject to appropriate conditions. Such permission would require a determination by the Board that, under the circumstances and subject to specified conditions, an exemption of those activities or investments would not be substantially at variance with the purposes of the Act and would be in the public interest.

To implement its determination, the Board has amended § 225.4 of its Regulation Y by adding paragraph (g) to read as set forth below. An accompanying interpretation expresses the Board's views on several questions that arose during the course of its consideration of this matter.

§ 225.4 Nonbanking activities.

* * * * *

(g) *Foreign bank holding companies.* (1) As used in this paragraph: (i) "Revenues" means gross income and "consolidated" means consolidated in accordance with generally accepted accounting principles in the United States consistently applied; (ii) "foreign country" means any foreign nation or colony, dependency, or possession thereof; and (iii) "foreign bank holding company" means a bank holding company, organized under the laws of a foreign country, more than half of whose consolidated assets are located, or consolidated revenues derived, outside the United States.

(2) A foreign bank holding company may:

(i) Engage in direct activities of any kind outside the United States;

(ii) Engage in direct activities in the United States that are incidental to its activities outside the United States;

(iii) Own or control voting shares of any company that is not engaged, directly or indirectly, in any activities in the United States except as shall be incidental to the international or foreign business of such company;

(iv) With the consent of the Board, own or control voting shares of any company principally engaged in the United States in financing or facilitating transactions in international or foreign commerce;

(v) Own or control voting shares of any company, organized under the laws of a foreign country, that is engaged, directly or indirectly, in any activities in the United States if (*a*) such company is not a subsidiary of such bank holding company, (*b*) more than half of such company's consolidated assets and revenues are located and derived outside the United States, and (*c*) such company does not engage, directly or indirectly, in the business of underwriting, selling, or distributing securities in the United States; and

(vi) Own or control voting shares of any company in a fiduciary capacity under circumstances which would entitle such shareholding to an exemption under section 4(c)(4) of the Act if the shares were held or acquired by a bank.

Nothing in this subparagraph shall authorize a foreign bank holding company to own or control more than 5 percent of any class of voting shares of any other bank holding company or company accepting deposits or similar credit balances in the United States, except in a fiduciary capacity or with prior approval of the Board.

(3) A foreign bank holding company that is of the opinion that other activities or investments may, in particular circumstances, meet the conditions for an exemption under section 4(c)(9) of the Act may apply to the Board for such a determination by submitting to the Reserve bank of the district in which its banking operations in the United States are principally conducted a letter setting forth the basis for that opinion.

(4) A foreign bank holding company shall inform the Board, through such Reserve bank within 30 days after the close of each quarter, of all shares of companies engaged, directly or indirectly, in activities in the United States that were acquired during such quarter under the authority of this paragraph. Such information shall (unless previously furnished) include a brief description of the nature and scope of each such company's business in the United States. Information required need be given only insofar as it is known or reasonably available to a foreign bank holding company. If any required information is unknown and not reasonably available to the bank holding company, either because the obtaining thereof would involve unreasonable effort or expense or because it rests peculiarly within the knowledge of a company that is not controlled by the bank holding company, the information need not be provided, but the bank holding company shall (i) give such information on the subject as it possesses or can acquire without unreasonable effort or expense together with the sources thereof, and (ii) include a statement either showing that unreasonable effort or expense would be involved or indicating that the company whose shares were acquired is not controlled by the bank holding company and stating the result of a request made to such company for information. No such request need be made, however, to any foreign government, or an agency or instrumentality thereof, if, in the opinion of the bank holding company, such request would be harmful to existing relationships.

(5) If, in the Board's judgment, a company is a substantial competitor in any line of commerce in the United States, an exemption under this paragraph with respect to ownership or control of such company's voting shares may not be predicated on the unavailability of information to establish whether or not such company's activities in the United States are consistent with such an exemption. In the absence of available information, it will be presumed that such a company's activities do not justify an exemption under this paragraph for the holding of its shares by a foreign bank holding company. A company will be deemed to be a substantial competitor in any line of commerce in the United States if its products or services are nationally advertised or distributed in this country or if they are widely advertised or distributed in a regional market in which a banking subsidiary, branch or agency of the foreign bank holding company is located. If unable to obtain sufficient information to

establish whether or not an exemption is available, a foreign bank holding company should seek prior approval of the Board before investing in any company that might be a substantial competitor in any line of commerce in the United States.

Effective date: December 1, 1971.

By order of the Board of Governors, November 4, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16660 Filed 11-15-71;8:48 am]

[Reg. Y]

PART 225—BANK HOLDING COMPANIES

Nonbanking Activities of Foreign Bank Holding Companies

§ 225.124 Foreign bank holding companies.

(a) Effective December 1, 1971, the Board of Governors has added a new § 225.4(g) to Regulation Y implementing its authority under section 4(c)(9) of the Bank Holding Company Act. The Board's views on some questions that have arisen in connection with the meaning of terms used in § 225.4(g) are set forth in paragraphs (b) through (g) of this section.

(b) The term "activities" refers to nonbanking activities and does not include the banking activities that foreign banks conduct in the United States through branches or agencies licensed under the banking laws of any State of the United States or the District of Columbia.

(c) A company (including a bank holding company) will not be deemed to be engaged in "activities" in the United States merely because it exports (or imports) products to (or from) the United States, or furnishes services or finances goods or services in the United States, from locations outside the United States. A company is engaged in "activities" in the United States if it owns, leases, maintains, operates, or controls any of the following types of facilities in the United States:

(1) A factory,
(2) A wholesale distributor or purchasing agency,
(3) A distribution center,
(4) A retail sales or service outlet,
(5) A network of franchised dealers,
(6) A financing agency, or
(7) Similar facility for the manufacture, distribution, purchasing, furnishing, or financing of goods or services locally in the United States.

A company will not be considered to be engaged in "activities" in the United States if its products are sold to independent importers, or are distributed through independent warehouses, that are not controlled or franchised by it.

(d) In the Board's opinion, section 4(a)(1) of the Bank Holding Company Act applies to ownership or control of shares of stock as an investment and does not apply to ownership or control of shares of stock in the capacity of an underwriter or dealer in securities. Underwriting or dealing in shares of stock are nonbanking activities prohibited to bank holding companies by section 4(a)(2) of the Act, unless otherwise exempted. Under § 225.4(g) of Regulation Y, foreign bank holding companies are exempt from the prohibitions of section 4 of the Act with respect to their activities outside the United States; thus foreign bank holding companies may underwrite or deal in shares of stock (including shares of United States issuers) to be distributed outside the United States, provided that shares so acquired are disposed of within a reasonable time.

(e) A foreign bank holding company does not "indirectly" own voting shares by reason of the ownership or control of such voting shares by any company in which it has a noncontrolling interest. A foreign bank holding company may, however, "indirectly" control such voting shares if its noncontrolling interest in such company is accompanied by other arrangements that, in the Board's judgment, result in control of such shares by the bank holding company. The Board has made one exception to this general approach. A foreign bank holding company will be considered to indirectly own or control voting shares of a bank if that bank holding company acquires more than 5 percent of any class of voting shares of another bank holding company. A bank holding company may make such an acquisition only with prior approval of the Board.

(f) A company is "indirectly" engaged in activities in the United States if any of its subsidiaries (whether or not incorporated under the laws of this country) is engaged in such activities. A company is not "indirectly" engaged in activities in the United States by reason of a noncontrolling interest in a company engaged in such activities.

(g) Under the foregoing rules, a foreign bank holding company may have a noncontrolling interest in a foreign company that has a U.S. subsidiary (but is not engaged in the securities business in the United States) if more than half of the foreign company's consolidated assets and revenues are located and derived outside the United States. For the purpose of such determination, the assets and revenues of the United States subsidiary would be counted among the consolidated assets and revenues of the foreign company to the extent required or permitted by generally accepted accounting principles in the United States. The foreign bank holding company would not, however, be permitted to "indirectly" control voting shares of the said U.S. subsidiary, as might be the case if there are other arrangements accompanying its noncontrolling interest in the foreign parent company that, in the Board's judgment, result in control of such shares by the bank holding company.

(Interprets and applies 12 U.S.C. 1843(a)(1), 1843(a)(2), and 1843(c)(9))

By order of the Board of Governors, November 4, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16661 Filed 11-15-71;8:48 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 71-WE-48]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Control Zone

On October 5, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 19399) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation regulations that would designate a new control zone at San Clemente Island, Calif.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., January 6, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on November 8, 1971.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

§ 71.171 (36 F.R. 2055) the following control zone is added.

SAN CLEMENTE ISLAND, CALIF.

Within a 5-mile radius of NALF San Clemente (latitude 33°01'20" N., longitude 118°35'15" W.) extending upward from the surface to and including 5,000 feet MSL, excluding that airspace beyond 3NM from and parallel to the shoreline. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airmen's Information Manual.

[FR Doc.71-16625 Filed 11-15-71;8:45 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Flumethasone Acetate

The Commissioner of Food and Drugs has evaluated a new animal drug application (36-212V) filed by Syntex Laboratories proposing the safe and effective use of flumethasone for the treatment of specified conditions in dogs. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), and under authority delegated to the Commissioner (21 CFR 2.120), Part 135b is amended by adding the following new section:

§ 135b.14 Flumethasone acetate injection veterinary.

(a) *Chemical name.* 6alpha,9alpha-difluoro-16alpha-methylprednisolone 21-acetate.

(b) *Specifications.* Flumethasone injection is sterile and contains per cubic centimeter: 2 milligrams of flumethasone acetate; 20 milligrams of propylene glycol; 9 milligrams of benzyl alcohol (as preservative); 8 milligrams of sodium chloride; 1 milligram of polysorbate 80; 0.1 milligram of citric acid; water for injection q.s.

(c) *Sponsor.* See code No. 036 in § 135.501(c) of this chapter.

(d) *Conditions of use.* (1) It is recommended in certain acute and chronic canine dermatoses of varying etiology to help control the pruritus, irritation, and inflammation associated with these conditions.

(2) The drug is administered intramuscularly at the following recommended daily dosage:

Weight of animal in pounds	*Dosage in milligrams*
Up to 10	1.0
10 to 25	2.0
25 and over	4.0

Dosage should be adjusted according to the weight of the animal, the severity of the symptoms, and the response noted. Dosage by injection should not exceed 3 days of therapy. With chronic conditions intramuscular therapy may be followed by oral administration of flumethasone tablets at a daily dose of from 0.0625 to 0.25 milligram per animal.

(3) For use only by or on the order of a licensed veterinarian.

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER (11–16–71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: November 5, 1971.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.71–16632 Filed 11–15–71;8:46 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Triamcinolone Tablets

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (12–103V) filed by American Cyanamid Co., Post Office Box 400, Princeton, NJ 08540, proposing the safe and effective use of triamcinolone tablets for the treatment of dogs and cats. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under the authority delegated to the Commissioner (21 CFR 2.120), Part 135c is amended by adding a new section as follows:

§ 135c.55 Triamcinolone tablets.

(a) *Chemical name.* 9-Fluoro-11β,16α, 17,21 - tetrahydroxy - pregna - 1,4 - diene-3,20-dione.

(b) *Specifications.* Each tablet contains 0.5 milligram of the drug.

(c) *Sponsor.* See code No. 004 in § 135.501(c) of this chapter.

(d) *Conditions of use.* (1) The drug is indicated for use in dogs and cats for its anti-inflammatory activity.

(2) The dosage range for dogs is 0.25 milligram to 2.0 milligrams per day for 7 days and the dosage range for cats is 0.25 milligram to 0.5 milligram per day for 7 days. Daily dosage may be given in two or more divided doses. Dosage must be adjusted to the response of the individual animal. Generally, initial dosages are at the higher range and when the response is satisfactory, the dosage is gradually reduced until a minimum adequate dose is obtained. Dosage may be repeated when necessary. Daily dosage may be given in two or more divided doses.

(3) Clinical and experimental data have demonstrated that corticosteroids administered orally or parenterally to animals may induce the first stage of parturition when administered during the last trimester of pregnancy and may precipitate premature parturition followed by dystocia, fetal death, retained placenta, and metritis. Side reactions such as weight loss, anorexia, diarrhea, polydypsia and polyuria may occur.

(4) For use only by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11–16–71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: November 5, 1971.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.71–16633 Filed 11–15–71;8:46 am]

SUBCHAPTER D—HAZARDOUS SUBSTANCES

PART 191—HAZARDOUS SUBSTANCES: DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

Baby-Bouncers, Walker-Jumpers, Baby-Walkers, and Other Similar Articles Intended for Use by Children

Seven comments were received in response to the notice published in the FEDERAL REGISTER of April 16, 1971 (36 F.R. 7255), proposing to ban mechanically hazardous baby-bouncers, walker-jumpers, baby-walkers, and other similar articles intended for use by children (§ 191.9a(a)(6)) and to exempt from such ban articles of this type that meet specified safety requirements (§ 191.65a (a)(4)).

The comments (four from industry groups, one from a consumer group, and two from consumers) may be seen in the Hearing Clerk's Office, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852.

The comments were generally favorable and included the following suggestions:

1. The names "baby-bouncers" and "baby-walkers" should be removed from the proposed regulations and a description of the articles added.

2. That the 4 to 18 month proposed age span of the intended users be changed to lower the upper limit to 15 months or to 12 months and that the maximum weight of intended users be specified as 30 pounds.

3. The amount of expansion permitted for exposed springs and the maximum size allowed for unguarded holes should be specified in the regulations.

4. The permissable expansion of exposed coil springs should not allow insertion of "part or all of" an infant's finger, toe, or part of the anatomy.

5. Articles subject to accidental collapse while in use should be included in the regulations.

6. Articles having sharp or pointed areas which could cut or puncture the skin should be banned.

7. Section 191.65a(a)(4) should be clarified regarding coding and recordkeeping.

8. The name of the importer should appear on the label of imported articles.

9. The labeling requirements should not be retroactive. An article which was shipped prior to the effective date of the regulation and which complies with all the safety requirements of the regulation should not be banned solely because it is not labeled with the name of the manufacturer.

10. The labeling requirements should apply to all items exempted from banning by § 191.65a and the recordkeeping requirements proposed (3 years) should be reduced to 1 year.

The above suggestions having been considered, the Commissioner of Food and Drugs concludes as follows:

1. The terms "baby-bouncers" and "baby-walkers" are used both by industry and the general public to describe the items intended to be covered by these regulations and the use of these designations will help clarify the scope of the regulations. The phrase "or other similar articles" clarifies the purpose of the regulations to include within their scope all articles conforming to the descriptions in the regulations whether or not they are called by those specific names.

2. Description of the age span and maximum weight of the intended users is unnecessary for the purpose of these regulations and should not be adopted. For the purpose of these regulations the intended users are considered to be adequately described in § 191.9a(a)(6) below as "very young children." In this connection it is noted that the subject articles are known to have caused injury to

infants ranging from 4 months to 3 years of age.

3. The permissible expansion of exposed springs and size of unguarded holes should be specified and are in the regulations set forth below.

4. All references to insertion of an infant's finger, toe, or any other part of the anatomy should be revised as set forth below to refer insertion "in whole or in part" of any such part of an infant's anatomy.

5. The regulations should include articles subject to accidental collapse and appropriate provisions have been added below.

6. Injuries due to sharp or pointed areas are covered in the regulation by the prohibition in § 191.9a(a)(6) and the design requirement in § 191.65a(a)(4)(v).

7. Section 191.65a(a)(4) should be clarified as suggested and has been changed to indicate that the model number need not appear on both the invoice and the shipping record provided the manufacturer can furnish data covering the identity and complete distribution of any particular model. Also, the model number required by the regulation is for identification of articles of the same construction and design and not to indicate articles of the same batch or production run.

8. For the purpose of § 191.65a(a)(4)(vi)(*a*) the terms "manufacturer, packer, distributor, or seller" include an importer for resale.

9. The labeling requirements have been clarified to provide that previously distributed models which meet the safety requirements of the regulation are not classified as banned hazardous substances if their only failure to comply is due to the lack of the required labeling information.

10. The labeling requirements should apply to all children's items which are subject to the Federal Hazardous Substances Act of 1969; however, applying labeling requirements to other types of children's articles not covered by the regulations set forth below will be handled by separate proposals and orders to allow the appropriate concerned parties to comment. The 3-year recordkeeping requirement is reasonable and necessary for adequate consumer protection.

Therefore, pursuant to provisions of the Federal Hazardous Substances Act (secs. 2(f)(1)(D), (s), 3(e)(1), 74 Stat. 372, 374, 375, as amended 83 Stat. 187–89; 15 U.S.C. 1261, 1262) and under authority delegated to the Commissioner (21 CFR 2.120), Part 191 is amended:

1. In § 191.9a by revising the section heading and the heading of paragraph (a) and by adding a new subparagraph (6) to paragraph (a), as follows:

§ 191.9a Banned toys and other banned articles intended for use by children.

(a) *Toys and other children's articles presenting mechanical hazards.* * * *

(6) Any article known as a "baby-bouncer," "walker-jumper," or "baby-walker" and any other similar article (referred to in this subparagraph as "article(s)") which is intended to support very young children while sitting, walking, bouncing jumping, and/or reclining, and which because of its design has any exposed parts capable of causing amputation, crushing, lacerations, fractures, hematomas, bruises, or other injuries to fingers, toes, or other parts of the anatomy of young children. Included among, but not limited to, the design features of such articles which classify the articles as banned hazardous substances are:

(i) The areas about the point on each side of the article where the frame components are joined together to form an "X" shape capable of producing a scissoring, shearing, or pinching effect.

(ii) Other areas where two or more parts are joined in such a manner as to permit a rotational movement capable of exerting a scissoring, shearing, or pinching effect.

(iii) Exposed coil springs which may expand sufficiently to allow an infant's finger, toe, or any other part of the anatomy to be inserted, in whole or in part, and injured by being caught between the coils of the spring or between the spring and another part of the article.

(iv) Holes in plates or tubes which provide the possibility of insertion, in whole or in part, of a finger, toe, or any part of the anatomy that could then be injured by the movement of another part of the article.

(v) Design and construction that permits accidental collapse while in use.

2. In § 191.65a by revising the section heading and by adding a new subparagraph (4) to paragraph (a), as follows:

§ 191.65a Exemptions from classification as a banned toy or other banned article for use by children.

(a) * * *

(4) Any article known as a "baby-bouncer," "walker-jumper," or "baby-walker" and any other similar article (referred to in this subparagraph as "article(s)") described in § 191.9a(a)(6) provided:

(i) The frames are designed and constructed in a manner to prevent injury from any scissoring, shearing, or pinching when the members of the frame or other components rotate about a common axis or fastening point or otherwise move relative to one another; and

(ii) Any coil springs which expand when the article is subjected to a force that will extend the spring to its maximum distance so that a space between successive coils is greater than one-eighth inch (0.125 inch) are covered or otherwise designed to prevent injuries; and

(iii) All holes larger than one-eighth inch (0.125 inch) in diameter and slots, cracks, or hinged components in any portion of the article through which a child could insert, in whole or in part, a finger, toe, or any other part of the anatomy are guarded or otherwise designed to prevent injuries; and

(iv) The articles are designed and constructed to prevent accidental collapse while in use; and

(v) The articles are designed and constructed in a manner that eliminates from any portion of the article the possibility of presenting a mechanical hazard through pinching, bruising, lacerating, crushing, breaking, amputating, or otherwise injuring portions of the human body when in normal use or when subjected to reasonably foreseeable damage or abuse; and

(vi) Any article which is introduced into interstate commerce after the effective date of this subparagraph is labeled:

(*a*) With a conspicuous statement of the name and address of the manufacturer, packer, distributor, or seller; and

(*b*) With a code mark on the article itself and on the package containging the article or on the shipping container, in addition to the invoice(s) or shipping document(s), which code mark will permit future identification by the manufacturer of any given model (the manufacturer shall change the model number whenever the article undergoes a significant structural or design modification); and

(vii) The manufacturer or importer of the article shall make, keep, and maintain for 3 years records of sale, distribution, and results of inspections and tests conducted in accordance with this subparagraph and shall make such records available at all reasonble hours upon request by any officer or employee of the Food and Drug Administration, or any other officer or employee acting on behalf of the Secretary of Health, Education, and Welfare, and shall permit such officer or employee to inspect and copy such records, to make such stock inventories as he deems necessary, and to otherwise check the correctness of such records.

Effective date. This order shall become effective 30 days after its date of publication in the FEDERAL REGISTER.

(Secs. 2(f)(1)(D), (s), 3(e)(1), 74 Stat. 372, 374, 375, as amended, 83 Stat. 187–89; 15 U.S.C. 1261, 1262)

Dated: November 5, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16634 Filed 11-15-71;8:46 am]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 545—HOMEWORKERS IN INDUSTRIES IN PUERTO RICO

PART 681—HOMEWORKERS IN CERTAIN INDUSTRIES IN PUERTO RICO

Minimum Wage Rates for Piece Work

Pursuant to the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), Reorganization Plan No. 6 of 1950 (3 CFR

1949–53 Comp. p. 1004) and Secretary Orders 13–71 and 15–71 (36 F.R. 8755 and 8756) I hereby amend Part 545 of Title 29 of the Code of Federal Regulations by consolidating the piece rates in Part 681 into Part 545, by changing the title and § 545.1 to include homeworkers employed in industries in Puerto Rico; removing obsolete footnotes 1, 2, and 5 and changing the numbering of footnotes 3 and 4 (§§ 545.1, 545.3, 545.7; and 545.100); transferring rate for braiding buttons from § 681.9(b) to § 545.13(b); updating the title of Schedule A in § 545.13; updating and transferring rates for lacing wallets from § 681.9(c) to § 545.13(c); revising rates in Schedules B, C, and D of § 545.13 and deleting Part 681. The increased rates are commensurate with and reflect increased minimum rates established in the recent wage orders in the pertinent industries as required by § 545.9. For this reason, it is hereby found that notice and public procedure are unnecessary. For the same reason, good cause is found to curtail an extensive delay in the effective date. This amendment shall be effective immediately.

1. The title to Part 545, Title 29, Code of Federal Regulations, is amended to read as set forth above.

2. Section 545.1 is revised to read as follows:

§ 545.1 Applicability.

The provisions of this part shall apply to persons in activities relating to homeworkers engaged in commerce or the production of goods for commerce in industries in Puerto Rico.

§ 545.3 [Amended]

3. Section 545.3, *Filing and notification requirements,* is amended by deleting Footnote 2 in paragraph (a).

§ 545.7 [Amended]

4. Section 545.7, *Records to be kept,* is amended by changing the numbering of Footnote 3 to 1 and Footnote 4 to 2.

5. Section 545.13, *Minimum rates to be established by the Administrator,* is revised to read as follows:

§ 545.13 Minimum piece rates established by the Administrator.

(a) Minimum piece rates established by the Administrator in accordance with § 545.9 are set forth in paragraphs (b), (c) and (d) of this section.

(b) Piece rate for hand-braiding leather buttons: A minimum piece rate of 59 cents a gross shall be paid to homeworkers in Puerto Rico engaged in the hand-braiding of leather buttons, 24 to 30 ligne by the following method: Tying a braided knot around the tip of a finger, bringing the knot into a rounded button shape by pulling the ends of the strip, forming the button shank for the prepared shank end of the strip, and trimming the loose end by cutting off the excess leather; all operations to be performed upon undegreased leather strips, each of which has been cut in advance to suitable dimensions so that one end may be formed into the button shank and the remainder braided to become the rounded button.

(c) Piece rates for the hand-lacing of leather wallets, leather wallet covers, and plastic wallets: A minimum piece rate of 1.62 cents per dozen stitches shall be paid to homeworkers in Puerto Rico engaged in the hand-lacing, single stitch, with plastic lacing material, of leather wallets and leather wallet covers; a minimum piece rate of 3.98 cents per dozen stitches shall be paid to homeworkers in Puerto Rico engaged in the hand-lacing, double stitch, with plastic lacing material, of leather wallets and leather wallet covers; and a minimum piece rate of 4.94 cents per dozen stitches shall be paid to homeworkers in Puerto Rico engaged in hand-lacing, double stitch, with plastic lacing material, of plastic wallets.

(d) Piece rates for needlework and related activities: Minimum piece rates established by the Administrator in accordance with the provisions of § 545.9 are given in Schedule A for the gloves and mittens industry in Puerto Rico as defined in § 603.1 of this chapter; in Schedule B for the handkerchief, scarf, and art linen industry in Puerto Rico, as defined in § 608.1 of this chapter; in Schedule C for the children's dress and related products industry in Puerto Rico, as defined in § 610.1 of this chapter; and in Schedule D for the women's and children's underwear and women's blouse industry in Puerto Rico, as defined in § 609.1 of this chapter.

SCHEDULE A—MINIMUM PIECE RATE SCHEDULE FOR THE GLOVE AND MITTEN INDUSTRY IN PUERTO RICO

The minimum piece rates given below have been adjusted to reflect increases in the appropriate minimum hourly rates which became effective August 9, 1969, i.e., the piece rates have been adjusted by the same ratio as the present minimum hourly rates bear to the previous minimum hourly rates. The piece rates given below for operations on fabric gloves are based upon the minimum hourly rate for the hand-sewing on fabric gloves classification, and the piece rates given below for operations on leather gloves are based upon the minimum hourly rate for the hand-sewing on leather gloves classification of the industry, as defined in § 603.2(a)(1) and 603.2(a)(2), respectively, of the current wage order for this industry. No piece rates have been established by the Administrator for operations on gloves made of a combination of leather and fabric parts.

Rate No.	Operations	Fabric gloves for ladies	Leather gloves		Unit of payment
			Ladies'	Men's	
		Cents	*Cents*	*Cents*	
1	Buttons, slip stitches with tape, 1 button per glove			114.000	Per dozen pair.
2	Buttonholes, stitched in and outside, 1 buttonhole per glove			152.000	Do.
3	Crede stitch, 5 to 6 stitches per inch	0.613			Per inch.
4	Egyptian stitch, 5 to 6 stitches per inch		1.043		Do.
5	Feather stitch, 5 to 6 stitches per inch	0.735	0.311		Do.
6	Large stitch (husky), 5 to 6 stitches per inch			0.937	Do.
7	Regular stitch, 5 to 6 stitches per inch	0.482	0.993	0.937	Do.
8	Slip stitch, hem only, 5 to 6 stitches per inch	0.311	0.672	0.672	Do.
9	Slip stitch, reinforcement on slit, 5 to 6 stitches per inch, when sewing has been fixed on by machine		0.672	0.672	Do.
10	Swagger stitch, 5 to 6 stitches per inch	0.482	0.993	0.937	Do.
11	Whip stitch, 5 to 6 stitches per inch	0.482	0.993	0.937	Do.

SCHEDULE B—MINIMUM PIECE RATE SCHEDULE FOR THE HANDKERCHIEF, SCARF, AND ART LINEN INDUSTRY IN PUERTO RICO

The piece rates given below have been adjusted to reflect increases in the appropriate minimum hourly rates which became effective August 27, 1971, i.e., the piece rates have been adjusted by the same ratio as the present minimum hourly rates bear to the previous minimum hourly rates. Of the rates given below, rate number 37(b) is based upon the minimum hourly rate for the hand-sewing on oblong scarves classification; rates numbered 106, 107, and 108 are based upon the minimum hourly rate for the other operations classification; and all other rates are based upon the minimum hourly rate for the hand-sewing on products other than oblong scarves classification of the industry, as defined in § 608.2(a)(1), 608.2(a)(4), and 608.2(a)(3), respectively, of the current wage order for this industry. The piece rates for rates numbered 33, and 100 through 105 are not applicable when the operation is performed on articles which are otherwise wholly machine sewn.

Rate No.	Operations	Cents	Unit of payment
1	Arenillas (seed stitch), close, ¼" squares	72.00	Per dozen squares.
2	Arenillas (seed stitch), scattered ½" squares	36.00	Do.
3	Arrows, filled in, ¾" long	18.00	Per dozen.
4	Basting lace	3.44	Per dozen inches.
5	Basting stitch for trimming, forming crosses, etc., 4 stitches per inch	3.00	Do.
6	Basting and folding hem on edges up to 1½" hem	1.29	Do.
7	Blind hemstitch	12.00	Do.
8	Buttonhole stitch, 16 stitches per inch	12.00	Do.
9	Buttonhole stitch, 24 to 30 stitches per inch	18.00	Do.
10	Chain stitch, 4 stitches per inch	3.00	Do.
11	Chain stitch, 8 stitches per inch	6.00	Do.
12	Cord, solid, on stem	18.73	Do.
13	Cord, twisted, over basting	6.00	Do.
14	Cord or embroidery, solid, without filling, up to ¼" thick[1]	18.00	Do.
15	Couching or flat cord, 4 stitches per inch	3.00	Do.
16	Cross stitch, 6 crosses per inch	12.73	Do.
17	Cut work with buttonhole stitch, 24 to 30 stitches per inch	24.00	Do.
18	Daisies, 12 to 15 stitches, with double embroidery thread	18.00	Per dozen.
19	Diamonds, filled in, ¾" to ⅞" wide	18.00	Do.
20	Dots, baby, not finished off, 2 to 3 stitches	4.93	Do.
21	Dots, large, not filled in, finished off, 12 stitches	9.00	Do.
22	Dots, large, filled in, finished off, over 12 stitches	18.00	Do.
23	Dots, large, not filled in, finished off, over 12 stitches	12.00	Do.
24	Dots, medium, not filled in, finished off, 8 to 9 stitches	7.92	Do.
25	Dots, medium, in groups, not finished off, 5 stitches, with double embroidery thread	5.11	Do.
26	Dots, medium, finished off, 5 stitches, with double embroidery thread	6.78	Do.

See footnotes at end of Schedule B.

Rate No.	Operations	Cents	Unit of payment
27	Embroidery, solid, 3/16" to 3/4" thick, averages 28 stitches per inch [1]	24.00	Per dozen inches.
28	Embroidery, solid, straight or diagonal same as image stitch, filled in, loose	24.00	Do.
29	Embroidery, solid, straight or diagonal, same as image stitch, not filled in, loose	18.00	Do.
30	Eyelets, 1/8" diameter	13.33	Per dozen.
31	Feather stitch, 12 stitches per inch	13.34	Per dozen inches.
32	Feather stitch cord	7.04	Do.
33	Flat hems without pasada	6.23	Do.
34	French knots, not finished off	2.52	Per dozen.
35	French knots, finished off, with double embroidery thread	4.80	Do.
36	Guariquenas	6.00	Do.
37	Hand or French rolling, 10 stitches or less per inch:		
	(a) Square scarves	10.96	Per 48 inches.
	(b) Oblong scarves	35.33	Do.
38	Hand or French rolling, 11 stitches or more per inch	20.38	Do.
39	Hand-rolling one side of a corner. The piece rate shall apply under the following conditions:		
	(a) The machine-stitching runs to the end on one side of each corner; and on the other side, the space left open for hand-rolling at the corner is not less than 1/4" nor more than 1"; and		
	(b) Only one side of each corner is hand-rolled; and the hand-rolling is not longer than 1".	40.02	Per dozen handkerchiefs.
40	Hand-rolling both sides of a corner. The piece rate shall apply under the following conditions:		
	(a) The machine-stitching does not run to the end of either side of any corner; and the space left open for hand-rolling at each side of the corners is not less than 1/4" nor more than 1"; and		
	(b) Both sides of the corners are hand-rolled; but the hand-rolling is not longer than 1" on either side of any corner.	70.08	Do.
41	Hand-rolling both sides of a corner. The piece rate shall apply under the following conditions:		
	(a) The machine-stitching runs to the end of one side of each corner; and on the other side, the space left open for hand-rolling at the corner is less than 1/4" nor more than 1"; and		
	(b) Both sides of the corners are hand-rolled; but the hand-rolling is not longer than 2" on any corner.	100.02	Do.
42	Hemstitch, single, 4 threads in a bundle, thread drawing not included	13.04	Per dozen inches.
43	Initials, simple, with hoops	60.00	Do.
44	Initials, simple, without hoops	37.20	Do.
45	Lace, joined at corners with hemming stitch	18.00	Do.
46	Leaves, simple	2.24	Per dozen.
47	Leaves, solid, not finished off, 1/4" long	7.08	Do.
48	Leaves, solid, not finished off, 3/8" to 1/2" long	12.00	Do.
49	Leaves, solid, not finished off, 5/8" to 3/4" long	24.00	Do.
50	Loops, made with worm stitch, 1/4"	4.02	Do.
51	Pasadas, 11" x 11" to 14" x 14", linen up to 1600 count, inclusive	12.00	Per dozen pasadas.
52	Pasadas, 11" x 11" to 14" x 14", linen 1700 count and over	16.80	Do.
53	Pasadas, 15" x 15", linen up to 1600 count, inclusive	20.40	Do.
54	Pasadas, 15" x 15", linen 1700 count and over	25.20	Do.
55	Pasadas, 16" x 16" to 20" x 20" linen up to 1400 count inclusive	23.80	Do.
56	Pasadas, short, 1" to 7" linen up to 1600 count inclusive [2]	6.23	Do.
	Pasadas, short:		
57	Cambric, 1" to 10"	12.00	Do.
58	Crash, 1" to 10"	9.00	Do.
59	Cambric, 10 1/2" to 18"	24.00	Do.
60	Crash, 10 1/2" to 18"	18.00	Do.
61	Patches, circular, sewed on with hemming stitch, cutting included	13.13	Per dozen inches.
62	Patches, irregular outline, sewed on with hemming stitch, cutting included	22.87	Do.
63	Patches, irregular outline, sewed on with blind stitch, up to 4"	16.80	Do.
64	Patches, irregular outline sewed on with blind stitch, over 4"	8.54	Do.
65	Patches, rectangular, sewed on with hemming stitch, cutting included	10.78	Do.
66	Randa, Don Diego, thread drawing not included	27.00	Do.
67	Randa, Mexican, tied at center only, thread drawing not included	6.00	Do.
68	Randa, simple, not stitched at either side, thread drawing not included	4.55	Do.
69	Rose buds, worm stitch, 4 worms, 2 colors or tones	17.82	Per dozen.
70	Scallops, plain, cutting included	20.15	Per dozen inches.
71	Shadow stitch, up to 3/8" wide	33.65	Do.
72	Spiders, 4 legs	12.00	Per dozen.
73	Spiders, 8 legs	23.47	Do.

See footnotes at end of Schedule B.

Rate No.	Operations	Cambric	Crash	Unit of payment
	Thread drawing			
	Art linens, first thread, not coming out at edge:	(*Cents*)	(*Cents*)	
74	Stamped 1" to 10"	4.23		Per dozen threads.
75	Not stamped 1" to 10"	5.35	3.18	Do.
	Art linens, unstamped, first thread, all-around, not coming out at edge:			
76	Doilies 12" X 18"	23.98	19.52	Per dozen pieces.
	Napkins:			
77	12" x 12"	19.18	16.25	Do.
78	15" x 15"	23.98	19.52	Do.
79	18" x 18"	28.78	22.55	Do.
	Scarves:			
80	17" x 36"	42.35	30.35	Do.
81	17" x 45"	49.55	34.22	Do.
82	17" x 54"	56.75	37.93	Do.
	Squares:			
83	36" x 36"	57.58	38.38	Do.
84	45" x 45"	71.93	45.62	Do.
85	54" x 54"	86.33	53.32	Do.
	Art linens, unstamped, first thread at one end, coming out at both edges:			
	Towels:			
86	9" x 15"		3.02	Do.
87	15" x 24"		4.38	Do.
88	18" x 30"		5.03	Do.
89	Art linens, after first thread		(3)	Do.
	Ladies handkerchiefs:			
90	First thread around edge, cotton or linen, up to 1600 count inclusive		6.00	Per dozen threads.
91	First thread, inside, cotton or linen, up to 1600 count inclusive		7.52	Do.
92	After first thread (for example, for hemstitching)		(3)	Do.
93	First thread around edge, linen up to 1600 count inclusive, 16" x 16" to 20" x 20".		9.00	Do.
94	First thread around edge, linen 1600 count and over, 16" x 16" to 20" x 20"		10.52	Do.
95	First thread, inside, linen up to 1600 count inclusive, 16" x 16" to 20" x 20"		10.52	Do.
96	First thread, inside, linen 1600 count and over, 16" x 16" to 20" x 20"		12.00	Do.
97	After first thread (for example, for hemstitching)		(3)	Do.

	Operations		
	No. 98	No. 99	No. 100
	Half roll, cambric and crash, at 6.55 cents per dozen inches	Hand or French rolling, 10 stitches or less per inch, cambric and crash, at 4.25 cents per dozen inches	Hemming stitch over pasada, measuring all around edge: Cambric at 4.02 cents per dozen inches
	Payment per dozen		
Doilies:			
8" x 16"	$3.14	$2.03	$1.92
10" x 14"	3.14	2.03	1.92
12" x 18"	3.92	2.54	2.40
Napkins:			
12" x 12"	3.14	2.03	1.92
15" x 15"	3.92	2.54	2.40
18" x 18"	4.72	3.05	2.88
Table scarves:			
17" x 36"	6.65	4.50	4.25
17" x 45"	8.12	5.26	4.96
17" x 54"	9.20	6.02	5.63
Squares:			
36" x 36"	9.44	6.12	5.77
45" x 45"	11.73	7.64	7.20
54" x 54"	14.15	9.18	8.65
Table cloths:			
54" x 72"	16.60	10.72	10.07
72" x 72"	18.83	12.23	11.54
72" x 90"	21.23	13.75	12.97

See footnotes at end of Schedule B.

	Operations		
	No. 101	No. 102	No. 103
	Hemming stitch over pasada, measuring all around edge: Crash at 3.70 cents per dozen inches	Second seams, for separate borders, measuring all around edge: Cambric, at 4.02 cents per dozen inches	Second seams for separate borders, measuring all around edge: Crash, at 3.70 cents per dozen inches
	Payment per dozen		
Doilies:			
8" x 16"	$1.80	$1.92	$1.80
10" x 14"	1.80	1.92	1.80
12" x 18"	2.26	2.40	2.26
Napkins:			
12" x 12"	1.80	1.92	1.80
15" x 15"	2.26	2.40	2.26
18" x 18"	2.70	2.88	2.70
Table scarves:			
17" x 36"	3.98	4.25	3.98
17" x 45"	4.66	4.96	4.66
17" x 54"	5.33	5.68	5.33
Squares:			
36" x 36"	5.42	5.77	5.42
45" x 45"	6.76	7.20	6.76
54" x 54"	8.12	8.65	8.12
Table cloths:			
54" x 72"	9.48	10.07	9.48
72" x 72"	10.82	11.54	10.82
72" x 90"	12.18	12.97	12.18

	Operations	
	No. 104	No. 105
	Second seams, for separate borders, with French corners, measuring all around edge: Cambric, at 4.50 cents per dozen inches	Second seams, for separate borders, with French corners, measuring all around edge: Crash, at 4.02 cents per dozen inches
	Payment per dozen	
Doilies:		
8" x 16"	$2.17	$1.92
10" x 14"	2.17	1.92
12" x 18"	2.70	2.40
Napkins:		
12" x 12"	2.17	1.92
15" x 15"	2.70	2.40
18" x 18"	3.25	2.88
Table scarves:		
17" x 36"	4.78	4.25
17" x 45"	5.57	4.96
17" x 54"	6.38	5.68
Squares:		
36" x 36"	6.48	5.77
45" x 45"	8.10	7.20
54" x 54"	9.74	8.65
Table cloths:		
54" x 72"	11.35	10.07
72" x 72"	12.97	11.54
72" x 90"	14.63	12.97

See footnotes at end of Schedule B.

Rate No.	Operations	Cents	Unit of payment
	Scallop cutting		
	Hand-cutting machine-embroidered, shallow, curved scallops on handkerchiefs or square scarves:		
106	Small, measuring from 5/16" up to but not including 5/8" along outside edge	41.30	Per dozen scallops.
107	Medium, measuring from 5/8" up to but not including 7/8" along outside edge.	52.00	Do.
108	Large, measuring from 7/8" to and inclusive of 1 1/4" along outside edge	78.00	Do.
	Needlepoint operations [4]		
109	Compact florals, figures, and landscapes [5]	62.40	Per 1,000 stitches.
110	Scattered florals [6]	67.20	Do.
111	Scattered florals consisting of borders or garlands only	72.00	Do.
112	Combinations of compact center and scattered borders in which the compact portion totals 45 percent or more of the total design.	67.20	Do.
113	Combinations of compact center and scattered borders in which the compact portion totals less than 45 percent of the entire design.	72.00	Do.
114	4.00 cents must be added to the above piece rates to cover thumbtack mounting on frame for each piece of canvas. Employers using other methods must set individual rates for mounting and removing canvas in accordance with section 515.10.		

[1] These piece rates have been set on the basis of O.N.T. thread No. 5, corded, which averages 28 stitches per inch of solid cord. If corded threads are used which are not so thick, the rate should be increased in proportion to the increase in the number of stitches per inch. If corded thread No. 11 is used, 15 percent must be added to the piece rate established for thread No. 5.

[2] For each additional count of 100, add 2.00 cents.

[3] For second and third threads, add 20 percent of rate for first thread; for additional threads, 15 percent of rate for first thread.

[4] These piece rates do not apply to the following types of needlepoint:
a. Florals having more than 10,000 stitches.
b. Florals having more than 36 color tones.
c. Figures and landscapes having more than 3,000 stitches.
d. Figures and landscapes having more than 25 color tones.
e. Petit point.
f. Stamped grospoint.

[5] A compact design is one in which 50 percent or more of the finished piece contains no spaces of unsewn canvas.

[6] A scattered design is one in which 50 percent or more of the component parts, when finished, are separated by spaces of unsewn canvas.

Schedule C—Minimum Piece Rate Schedule for the Children's Dress and Related Products Industry in Puerto Rico

The piece rates given below have been adjusted to reflect increases in the appropriate minimum hourly rates which became effective August 8, 1971, i.e., the piece rates have been adjusted by the same ratio as the present minimum hourly rates bear to the previous minimum hourly rates. Of the rates given below, rates numbered 6, 8, 11, 12, 13, 20, 31, 33, 37, 38, 51, 62, 64, 71, and 73, are based upon the minimum hourly rate for the other operations classification; and all other rates are based upon the minimum hourly rate for the hand-embroidery classification of the industry, as defined in § 610.2(a) (1) and (2), respectively, of the current wage order for this industry.

Rate No.	Operations	Cents	Unit of payment
1	Arenilla (seed stitch), close, 1/2" squares	156.00	Per dozen squares
2	Arenilla (seed stitch), scattered, 1/2" squares	78.00	Do.
3	Arrows, filled in, 1/4"	39.00	Per dozen.
4	Basting bias with cord	42.89	Per yard.
5	Basting for fagoting	11.73	Do.
6	Basting hems, 1" to 6" wide	32.53	Do.
7	Basting lace	22.47	Do.
8	Basting waist lines, plackets, and facings, 2 to 3 stitches per inch	20.37	Do.
9	Bias piping, joined, double, over 10 stitches per inch	52.00	Do.
10	Bias piping, joined, single, over 10 stitches per inch	65.00	Do.

See footnotes at end of Schedule B.

Rate No.	Operations	Cents	Unit of payment
11	Buttons sewed on with double thread, 2 to 3 stitches	21.17	Per dozen.
12	Buttonhole, stamped, ¾" long	70.09	Do.
13	Buttonhole, stamped, 1½" long	93.34	Do.
14	Buttonhole stitch, close	117.00	Per yard.
15	Cord, twisted, over basting	13.00	Per dozen inches.
16	Cutting material applied over lace with hand-embroidered solid cord stitch	17.83	Per yard.
17	Hand cutting material over lace applique or other material and at edges of garment following machine embroidered cord, large outline, around scallops measuring 1" or more.	.....	Do.
18	Hand cutting material over lace applique or other material and at edges of garment following machine embroidered cord, small outline around scallops measuring less than 1".	.....	Do.
19	Cutting material under lace or at seams, straight outline, following hand-sewing operations.	7.30	Do.
20	Cutting material under lace or at seams, straight outline, following machine operations.	8.54	Do.
21	Hand cutting material underneath straight or nearly straight outline	.....	Do.
22	Hand cutting material underneath irregular outline	.....	Do.
23	Dots, baby, not finished off, 2 to 3 stitches	10.83	Per dozen.
24	Dots, medium, not filled in, finished off, 8 to 9 stitches	17.15	Do.
25	Eyelets, up to ⅛" diameter	28.97	Do.
26	Eyelets, 3/16" diameter	52.60	Do.
27	Fagoting, straight lines	181.07	Per yard.
28	Fagoting, twisted lines	86.66	Do.
29	Feather stitch, 12 stitches per inch	86.66	Do.
30	Feather stitch cord	45.62	Do.
31	Flat roll	40.02	Do.
32	French knots, not finished off	5.06	Per dozen.
33	French seams, first seam by machine, 9 to 12 stitches per inch	25.11	Per yard.
34	Furunecos, with tape	195.00	Do.
35	Guariquenas	13.00	Per dozen.
36	Half roll (with colored or embroidered thread)	42.65	Per yard.
37	Hemming stitch for felling, 2 to 3 stitches per inch	20.57	Do.
38	Hemming stitch for felling, cuffs, collars, plackets, and waist bands, 8 to 10 stitches per inch.	68.00	Do.
39	Hemstitch, single, 4 threads in a bundle, thread drawing not included	84.62	Do.
40	Lace, sewed on with hemming stitch or round roll	65.00	Do.
41	Leaves, open, ¼" long	52.00	Per dozen.
42	Leaves, open, ⅜" to ½" long	78.00	Do.
43	Leaves, simple	4.86	Do.
44	Leaves, solid, not finished off, ⅛" long	14.27	Do.
45	Leaves, solid, not finished off, ¼" long	17.34	Do.
46	Leaves, solid, not finished off, ⅜" to ½" long	26.00	Do.
47	Leaves, solid, finished off, ⅜" to ¾" long	52.00	Do.
48	Loops, knitted, ¼"	16.29	Do.
49	Loops, knitted, 1" to 1½"	27.33	Do.
50	Loops, made with buttonhole stitch	39.00	Do.
51	Overcasting seams	34.61	Per yard.
52	Pasadas, short, 1" to 8"	.....	Per dozen pasadas.
53	Patches, sewed on with single point de ture	268.95	Per yard.
54	Patches, rectangular, sewed on with blind stitch, up to 1½"	16.35	Per dozen inches.
55	Patches, sewed on with solid cord, cutting and basting included	254.80	Per yard.
56	Point de ture plain, with embroidery thread	76.83	Do.
57	Randa, bundles twisted but not tied, thread drawing not included	32.49	Do.
58	Randa, Don Gonzales, thread drawing not included	136.49	Do.
59	Randa, Mexican, tied at center only, thread drawing not included	39.00	Do.
60	Ribbons, setting ends of	17.83	Per dozen.
61	Rose buds, worm stitch 4 worms, 1 or 2 colors or tones	38.63	Do.
62	Running stitch on hems up to 1" wide, 12 stitches per inch	43.77	Per yard.
63	Running stitch on lace	34.51	Do.
64	Running stitch for plain sewing	27.49	Do.
65	Scallops, plain, cutting included	130.86	Do.
66	Shadow stitch, up to ⅜" wide	251.34	Do.
67	Shell, 4 to 5 stitches per inch	44.57	Do.
68	Shirring material to be measured before shirring	26.19	Do.
69	Shirring and basting lace edging, material to be measured after shirring	31.45	Do.
70	Shirring and setting lace edging with hemming stitch on straight outline, material to be measured after shirring.	56.52	Do.
71	Size tickets set with hemming stitch, cutting tickets included	32.53	Per dozen inches.
72	Smocking	1.67	Per dozen stitches.
73	Snaps, sewing on both sides	32.53	Per dozen.
74	Solid cord stitch on gores and embroidery	122.20	Per yard.
75	Spiders, 4 legs	26.00	Per dozen.
76	Spiders, 8 legs	59.82	Do.
77	Tacks, set for fagoting	13.00	Do.
78	Tucks, stamped, 1/16" to ¼" wide, up to 6" long	40.67	Do.

SCHEDULE D—MINIMUM PIECE RATE SCHEDULE FOR THE WOMEN'S AND CHILDREN'S UNDERWEAR AND WOMEN'S BLOUSE INDUSTRY IN PUERTO RICO.

The piece rates given below have been adjusted to reflect increases in the appropriate minimum hourly rates which became effective August 27, 1971, i.e., the piece rates have been adjusted by the same ratio as the present minimum hourly rates bear to the previous minimum hourly rates. Of the rates given below rates numbered 17, 18, 20, 21, and 22 are based upon the minimum hourly rate for the other operations classification; and all other rate are based upo the minimum hourly rate for the handsewing classification of the industry, as defined in §§ 609.2(a)(1) and 609.2(a)(2), respectively, of the current wage order for this industry in Puerto Rico. The piece rates for rates numbered 6, 8, 11, 12, 13, 31, 33, 37, 38, 50, 62, 64, 71, and 73 are not applicable when the operations are peformed on articles wholly machine sewn or machine knit.

Rate No.	Operations	Blouses, neckwear and silk and synthetic underwear and nightwear	Cotton underwear and nightwear	Unit of payment
		Cents	*Cents*	
1	Arenilla (seed stitch), close, ½" squares	162.00	145.80	Per dozen squares.
2	Arenilla (seed stitch), scattered, ½" squares	81.00	72.90	Do.
3	Arrows, filled in, ¼"	40.50	36.45	Per dozen.
4	Basting bias with cord	44.55	40.11	Per yard.
5	Basting for fagoting	12.17	10.98	Do.
6	Basting hems, 1" to 6" wide	27.00	24.30	Do.
7	Basting lace	23.34	21.01	Do.
8	Basting waist lines, plackets, and facings, 2 to 3 stitches per inch.	16.89	15.21	Do.
9	Bias piping, joined, double, over 10 stitches per inch	54.00	48.60	Do.
10	Bias piping, joined, single, over 10 stitches per inch	67.50	60.75	Do.
11	Buttons sewed on with double thread, 2 to 3 stitches	17.64	15.87	Per dozen.
12	Buttonhole, stamped, ¾" long	68.23	62.41	Do.
13	Buttonhole, stamped, ½" long	77.39	69.66	Do.
14	Buttonhole stitch, close	121.50	109.35	Per yard.
15	Cord, twisted, over basting	13.50	12.15	Per dozen inches.
16	Cutting material applied over lace with hand-embroidered solid cord stitch.	18.51	16.64	Per yard.
17	Hand cutting material over lace applique or other material and at edges of garment following machine embroidered cord, large outline, around scallops measuring 1" or more.	2.95	.....	Do.
18	Hand cutting material over lace applique or other material and at edges of garment following machine embroidered cord, small outline around scallops measuring less than 1".	6.65	.....	Do.
19	Cutting material under lace or at seams, straight outline, following hand-sewing operation.	7.59	6.84	Do.
20	Cutting material under lace or at seams, straight outline, following machine operations.	8.15	8.15	Do.
21	Hand cutting material underneath straight or nearly straight outline.	2.26	.....	Do.
22	Hand cutting material underneath irregular outline	3.37	.....	Do.
23	Dots, baby, not finished off, 2 to 3 stitches	11.24	10.14	Per dozen.
24	Dots, medium, not filled in, finished off, 8 to 9 stitches	17.82	16.05	Do.
25	Eyelets, up to ⅛" diameter	30.09	27.09	Do.
26	Eyelets, 3/16" diameter	54.00	48.60	Do.
27	Fagoting, straight lines	188.04	169.24	Per yard.
28	Fagoting, twisted lines	90.01	81.00	Do.
29	Feather stitch, 12 stitches per inch	90.01	81.00	Do.
30	Feather stitch cord	47.37	42.63	Do.
31	Flat roll	40.94	36.84	Do.
32	French knots, not finished off	5.64	5.07	Per dozen.
33	French seams, first seam by machine, 9 to 12 stitches per inch	22.29	20.07	Per yard.
34	Furunecos, with tape	202.50	182.25	Do.
35	Guariquenas	13.50	12.15	Per dozen.
36	Half roll (with colored or embroidered thread)	44.28	39.84	Per yard.
37	Hemming stitch for felling, 2 to 3 stiches per inch	23.61	21.24	Do.
38	Hemming stitch for felling, cuffs, collars, plackets, and waist bands, 8 to 10 stitches per inch.	60.39	54.36	Do.
39	Hemstitch, single, 4 threads in a bundle, thread drawing not included.	87.87	79.03	Do.
40	Lace, sewed on with hemming stitch or round roll	67.50	60.75	Do.
41	Leaves, open, ¼" long	54.00	48.60	Per dozen.
42	Leaves, open, ⅜" to ½" long	81.00	72.90	Do.
43	Leaves, simple	5.04	4.52	Do.
44	Leaves, solid, not finished off, ⅛" long	14.83	13.35	Do.
45	Leaves, solid, not finished off, ¼" long	17.99	16.20	Do.
46	Leaves, solid, not finished off, ⅜" to ½" long	27.00	24.30	Do.
47	Leaves, solid, finished off, ⅜" to ¾" long	54.00	48.60	Do.

Rate No.	Operations	Blouses, neckwear and silk and synthetic underwear and nightwear	Cotton underwear and nightwear	Unit of payment
48	Loops, knitted, ¼"	16.89	15.21	Do.
49	Loops, knitted, 1" to 1½"	28.37	25.50	Do.
50	Loops, made with buttonhole stitch	40.50	36.45	Do.
51	Overcasting seams	28.71	25.83	Per yard.
52	Pasadas, short, 1" to 8"		12.69	Per dozen pasadas.
53	Patches, sewed on with single point de ture	268.02	242.04	Per yard.
54	Patches, rectangular, sewed on with blind stitch, up to 1½"	16.98	15.27	Per dozen inches.
55	Patches, sewed on with solid cord, cutting and basting included.	264.60	238.14	Per yard.
56	Point de ture plain, with embroidery thread	78.74	70.86	Do.
57	Randa, bundles twisted but not tied, thread drawing not included.	33.75	30.36	Do.
58	Randa, Don Gonzales, thread drawing not included	141.75	127.56	Do.
59	Randa, Mexican, tied at center only, thread drawing not included.	40.50	36.45	Do.
60	Ribbons, setting ends of	18.51	16.64	Per dozen.
61	Rose buds, worm stitch 4 worms, 1 or 2 colors or tones	40.11	36.09	Do.
62	Running stitch on hems up to 1" wide, 12 stitches per inch	36.27	32.64	Per yard.
63	Running stitch on lace	35.81	32.23	Do.
64	Running stitch for plain sewing	24.39	21.96	Do.
65	Scallops, plain, cutting included	135.91	122.31	Do.
66	Shadow stitch, up to ⅜" wide	260.99	234.90	Do.
67	Shell, 4 to 5 stitches per inch	46.29	41.67	Do.
68	Shirring material to be measured before shirring	27.18	24.45	Do.
69	Shirring and basting lace edging, material to be measured after shirring.	32.67	29.41	Do.
70	Shirring and setting lace edging with hemming stitch on straight outline, material to be measured after shirring.	58.71	52.83	Do.
71	Size tickets set with hemming stitch, cutting tickets included	27.00	24.30	Per dozen inches.
72	Smocking	1.11	.99	Per dozen stitches.
73	Snaps, sewing on both sides	27.00	24.30	Per dozen.
74	Solid cord stitch on gores and embroidery	126.90	114.21	Per yard.
75	Spiders, 4 legs	27.00	24.30	Per dozen.
76	Spiders, 8 legs	52.77	47.49	Do.
77	Tacks, set for fagoting	13.50	12.15	Do.
78	Tucks, stamped, 1/16" to ¼" wide, up to 6" long	42.24	38.02	Do.

§ 545.100 [Amended]

6. Section 545.100, *Enforcement policies,* is amended by deleting Footnote No. 5.

7. Part 681, Title 29, Code of Federal Regulations, is deleted.

(52 Stat. 1060; 29 U.S.C. 206)

Signed at Washington, D.C., this 2d day of November 1971.

HORACE E. MENASCO,
Administrator, Wage and Hour Division, U.S. Department of Labor.

[FR Doc.71-16563 Filed 11-15-71;8:45 am]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER D—SECURITY

PART 155—INDUSTRIAL PERSONNEL SECURITY CLEARANCE PROGRAM

Immigrant Alien Residence Requirements

The following amendment to Part 155 has been approved:

Section 155.12(b) has been added as follows:

§ 155.12 Personnel clearance memorandums.

* * * * *

(b) *Personnel Clearance Memorandum No. 71-1, Immigrant Alien Residence Requirements*—(1) *Purpose.* This paragraph (b) is published under the authority of § 155.6(a) and establishes supplemental instructions and guidance for the administrative disposition of industrial personnel security cases of immigrant aliens who do not meet the prescribed United States residence requirements.

(2) *Policy.* To be eligible to be processed for an industrial security clearance a contractor employee who is an immigrant alien must reside and must intend to reside permanently in the United States (including Puerto Rico, Guam and the Virgin Islands). An immigrant alien contractor employee who does not reside and does not intend to reside permanently in the United States cannot be considered a bona fide candidate for issuance or continuation of a clearance. The processing of a request for clearance of such an immigrant alien causes needless effort and expense to the Department of Defense and to the contractor, serves no useful Government purposes, and will be administratively terminated without prejudice to the individual concerned. The contractor and the employee will be notified of the termination and will be informed that the request for clearance may be reinstituted upon a showing of change in the applicable facts. An immigrant alien contractor employee who is not eligible to be processed for an industrial security clearance is not eligible for continuation of such a clearance.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division OASD (Comptroller).

[FR Doc.71-16654 Filed 11-15-71;8:48 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 4—Department of Agriculture

PART 4-12—LABOR

Miscellaneous Amendments

These amendments involve matters relating to agency management and to contracts and include rules interpreting and implementing existing regulations of other Federal agencies which are not subject to the notice and public procedure requirements for rule making under 5 U.S.C. 553. It is in the public interest that these provisions be made effective immediately. Accordingly, in accordance with the Secretary's Statement of Policy (36 F.R. 13804) it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest.

(E.O. 11246, as amended by E.O. 11375; 41 CFR Part 60)

1. Section 4-12.802 is revised by adding new paragraphs (g) and (h) as follows:

§ 4-12.802 Definitions.

* * * * *

(g) "Federally involved" includes Federal or federally assisted projects.

(h) "Critical trades" means those trades that have been identified as being underutilized and are listed in the plan.

2. Section 4-12.805-4 is added as follows:

§ 4-12.805-4 Procedures for evaluating contractor's performance under "Imposed" and "Hometown" plans in federally involved construction contracts.

(a) Requirements for prime contractors and subcontractors—Manpower Utilization Report: (1) The contractor shall report to the Chief, Contract Compliance Review Staff, Office of the Secretary, U.S. Department of Agriculture, Washington, D.C. 20250, on a Manpower Utilization Report, Optional Form 66. The contractor shall make separate reports for federally involved and non-Federal construction projects.

(i) *Federally involved projects.* Report all critical and noncritical trades.

(ii) *Non-Federal projects.* Report only critical trades in area covered by the plan for those projects bid subsequent to award of the federally involved contract.

(2) The compliance agency shall require these reports to be submitted by the fifth day of each month. Five days thereafter, the compliance agency will submit the assembled information to the Director, Office of Federal Contract Compliance (OFCC). If the contractor fails to submit his report on time, he will be given an additional 5-day period to submit the report. Failure of the contractor to report by the end of the extended period requires the Department Contract Compliance Officer to immediately issue a 30-day show cause notice indicating that the contractor is in noncompliance for failure to submit the required information.

(3) The contractor shall also send a duplicate copy of each Manpower Utilization Report to the nearset OFCC coordinator from the following list:

NEW YORK REGIONAL OFFICE

Contract Compliance Advisor, OFCC, U.S. Department of Labor, Nelson Tower, Room 806, 450 Seventh Avenue, New York, NY 10001.

BOSTON REGIONAL OFFICE

Contract Compliance Advisor, OFCC, U.S. Department of Labor, JFK Building, Room 1712-A, Government Center, Boston, Mass. 02203.

PHILADELPHIA REGIONAL OFFICE

Regional Director, OFCC, U.S. Department of Labor, 1142 Western Savings Fund Building, Broad and Chestnut Streets, Philadelphia, PA 19107.

CHICAGO REGIONAL OFFICE

Regional Director, OFCC, U.S. Department of Labor, 811 Customs Building, 610 South Canal Street, Chicago, IL 60607.

CLEVELAND AREA OFFICE

Area Director, OFCC, U.S. Department of Labor, 803 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.
44199.

DETROIT AREA OFFICE

Area Director, OFCC, U.S. Department of Labor, 617 Federal Building, 231 West Lafayette Street, Detroit, MI 48226.

ST. LOUIS AREA OFFICE

Area Director, OFCC, U.S. Department of Labor, 210 North 12th Boulevard, Room 513, St. Louis, MO 63101.

DALLAS REGIONAL OFFICE

Contract Compliance Advisor, Office of Federal Contract Compliance, U.S. Department of Labor, 1100 Commerce Street, Room 13B13, FOB and U.S. Courthouse, Dallas, TX 75202.

HOUSTON AREA OFFICE

Area Director, OFCC, U.S. Department of Labor, 2320 La Branch Street, Room 261, Houston, TX 77004.

ATLANTA REGIONAL OFFICE

Regional Director, OFCC, U.S. Department of Labor, 1371 Peachtree Street NE., Room 720, Atlanta, GA 30309.

SAN FRANCISCO REGIONAL OFFICE

Contract Compliance Advisor, OFCC, U.S. Department of Labor, 1003 Federal Office Building, 450 Golden Gate Avenue, San Francisco, CA 94102.

LOS ANGELES AREA OFFICE

Contract Compliance Advisor, OFCC, U.S. Department of Labor, Federal Building, Room 4345, 300 North Los Angeles Street, Los Angeles, CA 90012.

SEATTLE REGIONAL OFFICE

Regional Director, OFCC, U.S. Department of Labor, Arcade Plaza Building, M/S 382, 1321 Second Avenue, Seattle, WA 98101.

DENVER REGIONAL OFFICE

Regional Director, OFCC, U.S. Department of Labor, New Federal Office Building, Room 1440, 19th and Stout Streets, Denver, CO 80202.

(b) Acquisition of report forms: Optional Form 66, Monthly Manpower Utilization Report is available in all GSA supply depots.

Optional form No.	Stock No.	Title
66	7540-181-7232	Monthly manpower utilization report.

(c) Requirements for contracting agencies: Each contracting agency shall submit its reports to the Chief, Contract Compliance Review Staff, Office of the Secretary, U.S. Department of Agriculture, Washington, D.C. 20250, on or before the 10th day of each month, covering the employment activities of contractors and subcontractors for the previous calendar month. Contracting agencies should encourage the contractor to report for his subcontractors as well as himself.

(1) *Contracting activity report.* This report is to be completed by the contracting agency on the basis of the activities concerning the invitation for bids and the resulting contract. The contracting agency shall see that the invitation for bids and the resulting contract contain the appropriate bid conditions. Copies of the invitation and contract shall not be forwarded to the OFCC's national or local office. However, agencies shall be able to provide copies of such documents if requested. The following information is to be included in the report:

(i) An identification number for the plan must be assigned to each contract. This number is to be used on all reports submitted under a plan. The number shall contain the following: Plan area, agency, month and year of contract, and a serial number. For example:

PH-AG (FS)—6-71-001.
PH=Philadelphia.
AG (FS) =Department of Agriculture, Forest Service.
6-71=June 1971.
001=The first contract issued under the Philadephia Plan.

(ii) Contracting agency, address, and phone number of contracting officer.

(iii) Project name, location, total value, and estimated duration of contract.

(iv) Did invitation contain plan specification?

(v) Identity of low bidder or bidders—address and phone number (list prime and subcontractors and trades).

(vi) Did contract contain plan requirements?

(2) *Post contract implementation report.* This report shall contain information in regard to all Federal and federally assisted construction contracts issued under a plan. The following information shall be reported:

(i) Plan identification number and project location.

(ii) Contracting agency, address, and phone number of contracting officer.

(iii) Did contractor submit Monthly Manpower Utilization Report on time?

(iv) For each contract, list each trade and each contractor and record the total man-hours reported for the month.

(v) For each contract, for each trade and for each contractor list in the same order as in subdivision (iv) of this subparagraph, the minimum goals, if required by the contract. Indicate N/A if goal is not required.

(vi) For each contract, for each trade and for each contractor listed in the same order as in subdivision (iv) of this subparagraph, record the minority man-hours reported for the month.

(vii) For each contract, for each trade and for each contractor listed in the same order as in subdivision (iv) of this subparagraph, record the minority man-hours as a percentage of the total man-hours for the month.

(viii) List the total number of workers and the number of minority workers employed by each contractor.

(ix) If the contractor is required by the bid conditions to meet minimum goals in a trade, compare the percentage of minority man-hours in subdivision (vii) of this subparagraph with the percent required in subdivision (v) of this subparagraph. If the percentage in subdivision (vii) of this subparagraph is less than the percent in subdivision (v) of this subparagraph, the contractor is not in compliance with goal requirements. Indicate in the report, those trades not found to be in compliance.

(d) Contractors and contracting agencies shall use the reporting requirements in paragraphs (a) and (c) of this section for all plans except the Philadelphia Plan. Reports submitted under the Philadelphia Plan shall be transmitted using previous reporting procedures.

Effective date: Upon publication in the FEDERAL REGISTER (11-16-71).

Done at Washington, D.C., this 10th day of November 1971.

T. M. BALDAUF,
Acting Director
of Plant and Operations.

[FR Doc.71-16603 Filed 11-15-71;8:45 am]

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER J—MISCELLANEOUS

[General Order 112]

PART 380—PROCEDURES

Subpart E—Compulsory Disclosure

Due to the obsolescence of directive, it is deemed desirable to recodify the heading and text of § 380.36 *Subpoenas, other compulsory processes and requests* in Subpart D of this part by transferring them to a new Subpart E—*Compulsory Disclosure* to be added to said part and redesignating the section number as § 380.40 so that, as amended herein, it will read as follows:

§ 380.40 Subpoenas, other compulsory processes and requests.

In any case where it is sought by subpoena, order, or other compulsory process or other demand of a court or other authority to require the production or disclosure of any record in the files of the Maritime Administration or other information acquired by an officer or employee of the Maritime Administration as a part of the performance of his official duties or because of his official status, the matter shall be immediately referred for determination, through the Secretary of the Maritime Administration and Maritime Subsidy Board, to the Assistant Secretary of Commerce for Maritime Affairs

who shall take all necessary steps as prescribed in section 7 of Department Administrative Order 205–12, as amended (32 F.R. 9734, July 4, 1967).

(Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114)

Dated: November 10, 1971.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc. 71-16677 Filed 11-15-71;8:50 am]

Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM-85; Amdts. Nos. 172-13, 173-57, 178-22]

PART 173—SHIPPERS

Flammable Liquids Not Specifically Provided for

Correction

In F.R. Doc. 71-16128 appearing at page 21287 in the issue of Friday, November 5, 1971, the last sentence of § 173.119 (b) (8) should read as follows: "Authorized only for materials that will not react with polyethylene and result in container failure."

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Montezuma National Wildlife Refuge, N.Y.

The following special regulation is issued and effective on date of publication in the FEDERAL REGISTER (11-16-71).

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

NEW YORK

MONTEZUMA NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Montezuma National Wildlife Refuge, N.Y., is permitted except on the areas designated by signs as closed. The open area, comprising 3,874 acres, is delineated on maps available at refuge headquarters, 5 miles east of Seneca Falls, N.Y.; and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Boston, Mass. 02109. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special conditions:

1. The open season is Monday through Friday from November 15 to December 7, 1971, inclusive. Actual dates open are November 15, 16, 17, 18, 19, 22, 23, 24, 25, 26, 29, 30; December 1, 2, 3, 6, and 7.

2. Only longbows may be used. No gun hunting will be allowed.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 7, 1971.

MARTIN S. PHILLIPS,
Refuge Manager, Montezuma National Wildlife Refuge, Seneca Falls, N.Y.

[FR Doc.71-16642 Filed 11-15-71;8:47 am]

PART 33—SPORT FISHING

Montezuma National Wildlife Refuge, N.Y.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11-16-71).

§ 33.5 Special regulations: Sport fishing; for individual wildlife refuge areas.

NEW YORK

MONTEZUMA NATIONAL WILDLIFE REFUGE

Sport fishing in State waters in compliance with State regulations is permitted from refuge lands from January 1 to December 31, 1972. The three areas open to access to fishing are designated by signs and delineated on maps available at refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

The provisions of this special regulation supplement the regulations governing fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1972.

MARTIN S. PHILLIPS,
Refuge Manager, Montezuma National Wildlife Refuge, Seneca Falls, N.Y.

[FR Doc.71-16643 Filed 11-15-71;8:47 am]

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements, and Orders; Fruit, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 506, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* The provision in paragraph (b) (1) of § 910.806 (Lemon Regulation 506, 36 F.R. 21331) during the period November 7, through November 13, 1971, is hereby amended to read as follows:

§ 910.806 Lemon Regulation 506.

* * * * *

(b) *Order.* (1) * * * 180,000 cartons.

* * * * *

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 11, 1971.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-16678 Filed 11-15-71;8:45 am]

[Lemon Reg. 507]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling; Correction

In the FEDERAL REGISTER issue of November 13, 1971, paragraph (b) (1) of Lemon Regulation 507 (36 F.R. 21751) contained an error relating to the quantity of lemons grown in California and Arizona which may be handled during the period November 14 through November 20, 1971. The regulation specified 175,000 cartons as the permissible quantity which is hereby corrected to read as follows:

§ 910.807 Lemon Regulation 507.

* * * * *

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period November 14 through November 20, 1971, is hereby fixed at 170,000 cartons.

* * * * *

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 12, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-16764 Filed 11-15-71;8:56 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 930]

CHERRIES GROWN IN CERTAIN STATES

Notice of Proposed Rule Making

Notice is hereby given that the Department is considering proposed rules and regulations (§§ 930.101 through 930.107) hereinafter designated as Subpart—Rules and Regulations, pursuant to the marketing Order No. 930 (Part 930; 36 F.R. 1088) regulating the handling of cherries grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The aforesaid rules and regulations were proposed by the Cherry Administrative Board, established under said marketing order as the agency to administer the terms and provisions thereof. The proposed rules and regulations would be issued pursuant to §§ 930.54, 930.56, and 930.58 and would establish: (1) The procedure to be used in making application for and accomplishing diversion and the fee involved according to acreage; (2) the form for reserve pool cherries; (3) a processing factor, when used in relation to raw cherry receipts, which would determine reserve pool obligation; (4) period for the submission to the board by each individual handler data on the yearly total tonnage of cherries handled; and (5) an assessment procedure.

Subpart—Rules and Regulations

§ 930.101 Diversion application.

(a) Prior to March 1st of each fiscal year each producer, in order that his application for diversion be eligible for consideration by the Cherry Administrative Board for the forthcoming fiscal year, shall submit to, or have on file with the board the following information.

(1) Name and address of the applicant.

(2) District or Districts in which applicant's orchard sites are located.

(3) Age of trees, number of rows of trees, number of trees in each row, number of rows in each block and a diagram of each block referencing the compass points.

(4) Total of applicant's acreage devoted to cherry production with a subtotal for each definable block included in this total.

Such information submitted shall not be considered as application for diversion.

(b) Each producer who elects to divert cherries into an outlet as the board with the approval of the Secretary may designate as specified in § 930.56, shall, prior to such diversion, submit to the Cherry Administrative Board at its office in Hartford, Mich., or such other location as may be specified by the board, on forms provided by the board, an application to divert cherries as required by § 930.56(a)(1). Such application shall be filed with the board not later than July 1 of the current fiscal year: *Provided,* That, such application for growers who will harvest cherries prior to July 1 of any fiscal year, shall be filed on such earlier date as may be specified by the board or if not so specified, prior to harvest of such cherries.

§ 930.102 Diversion fees.

(a) Each producer who makes application to divert cherries pursuant to § 930.56 shall pay to the board the direct cost of supervision of the diversion as specified in the order. Such direct costs are hereby established as follows:

(1) Schedule of fees to be assessed applicant:

Total acres to be diverted in each district	*Fee*
Acreage up to and including 25 acres	$25
26–75 acres	50
76–150 acres	75
151 or more acres	100

(i) In addition to the above fee, there would be assessed $10 per site not contiguous to any other site specified in the application: *Provided,* That said sites shall be considered as contiguous if said sites and the connecting properties are owned or controlled by the applicant.

(ii) Each application shall be accompanied by the full fee applicable to such diversion request. Such payment shall be in the form of cash, or check made payable to the Cherry Administrative Board: *Provided,* That said fee, minus costs incurred by the board in connection with said application, shall be refunded or credited to the account of the applicant if said application does not receive approval. If the application is denied, the applicant shall be informed by telephone or telegram including the reasons for such denial. Telephone notification shall be confirmed immediately in writing.

§ 930.103 Diversion.

Diversion shall be accomplished by leaving such cherries unharvested: *Provided,* That such cherries shall remain on the tree until final inspection and shall not be removed from the premises other than by board approval.

§ 930.104 Reserve pool requirements.

(a) Reserve pool cherries shall be set aside in the form of 5 plus 1 (5 pounds of raw pitted cherries combined with 1 pound of sugar) frozen cherries packed in new 30-pound metal cans. Such cherries shall be graded and certified by the U.S. Department of Agriculture.

(b) Such cherries shall be (as specified in § 930.54(c)) stored separate and apart from all other frozen cherries and in accordance with good commercial practices with said certification and warehouse receipt stating lot and code number constituting proof of physical separation.

(c) Such cherries, for each handler who freezes cherries, shall reflect not less than the overall grade, quality, and condition of the total frozen production of said handler: *Provided,* That said reserve pool cherries shall not grade lower than 50 percent U.S. Grade "A" unless otherwise exempted by the board.

(d) Such cherries, for each handler who does not freeze cherries and therefore obtains reserve pool cherries from another handler who does freeze cherries, shall reflect not less than the overall grade, quality, and condition of the total frozen production of the handler who freezes such cherries: *Provided,* That said reserve pool cherries shall not grade lower than 50 percent U.S. Grade "A" unless otherwise exempted by the board.

§ 930.105 Processing factor.

The factor (ratio of raw cherries to finished processed cherries, including sugar) to be used in accordance with § 930.54(a) to determine the total amount of processed cherries each handler shall set aside in the reserve pool shall be computed on the basis that each 33 pounds of raw cherries shall equal one 30-pound can of 5 plus 1 frozen cherries (25 pounds of processed cherries and 5 pounds of sugar) for a ratio of 1.1 to 1.

§ 930.106 Pack report.

Each handler, in accordance with § 930.62 shall submit to the Cherry Administrative Board at its office in Hartford, Mich., or such other location as may be specified by the Board, within 30 days after date of pack completion a written report containing the total amount of cherries received for processing: *Provided,* That such amounts of cherries that are to be considered as first handled shall be so designated.

§ 930.107 Assessment procedure.

Upon receipt of pack completion report as required by § 930.104, each handler shall be assessed an amount per ton as determined by the board and approved by the Secretary, on all cherries handled. Each handler shall pay interest of 1 percent per month on any unpaid balance beginning 30 days after date of billing.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed rules and regulations shall file same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, not later than the 30th day after publication

of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27).

Dated: November 10, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

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[7 CFR Part 1124]

[Docket No. AO-368-A4]

MILK IN THE OREGON-WASHINGTON MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Oregon-Washington marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Tualatin, Oreg., on March 30, 1971, pursuant to notice thereof issued on March 3, 1971 (36 F.R. 4548).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on August 24, 1971 (36 F.R. 17040), filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Under "1. Pool plant qualifications.", the 27th paragraph is changed and eight paragraphs are added immediately following it.

2. Under "2. Diversion of producer milk.", three paragraphs are added immediately following the 18th paragraph thereof.

3. "3. Location adjustments." is completely changed.

4. Under "4. Class prices and classification.", the first four paragraphs are changed.

5. Under "6. Computation of producer bases.", the fifth paragraph is changed and another paragraph is added immediately following it.

The material issues on the record relate to:

1. Pool plant qualifications.
2. Diversion of producer milk.
3. Location adjustments.
4. Class prices and classification.
5. Expansion of the marketing area.
6. Computation of producer bases.
7. Application of order to producer-handler operations.
8. Miscellaneous and conforming changes.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Pool plant qualifications*—(a) *Pool distributing plants.* The minimum in-area route disposition requirement for pooling a distributing plant should not be changed.

The order now qualifies as a pool plant any distributing plant which disposes of at least 15 percent of its monthly receipts of Grade A milk (except packaged fluid milk products from other Federally regulated plants) on routes in the marketing area and not less than 30 percent of such receipts on routes both inside and outside the marketing area.

The operator of a pool distributing plant in Weed, Calif., with route disposition in the marketing area of between 30 and 35 percent of his Grade A receipts, proposed that the minimum in-area route disposition percentage for pooling be increased from 15 percent to 35 percent of a plant's Grade A receipts. While such a modification in the in-area pooling requirements would necessitate some modification in the present 30 percent minimum overall route disposition requirement, proponent did not direct his attention to this matter.

The proponent handler receives milk regularly from seven producers and obtains supplemental supplies from a fully regulated handler under the order. His route disposition in the marketing area is in Klamath County, Oreg., and is a substantial part of the total sales in that county. His overall Class I utilization percentage is above the average for the market.

A spokesman for the seven producers testified in support of the handler's proposal, the purpose of which is to obtain nonpool status for the plant. He expected that the blend price now returned to producers at the Weed plant for their milk would not be reduced if the plant were unregulated since it would not be affected by the lower price applicable to the reserve supplies now associated with the market.

Two pool handlers whose plants are located in Klamath County as well as producers in that area opposed any increase in the in-area route disposition requirement for pooling. They held that nonpool status would afford the Weed handler an unwarranted advantage at the expense of other handlers and of producers generally and would reinstitute the kind of unstable marketing conditions that prevailed prior to the order and led to its inception.

The Weed handler claims that he is operating at a competitive disadvantage because the major part of his sales are outside the marketing area and the California handlers with whom he competes, who are regulated under California State orders, obtain their Class I milk supplies at prices below the Federal order price which he is required to pay.

There is no indication that the Weed handler's Class I sales either inside or outside the marketing area have declined since the inception of the order. His principal competition outside the marketing area, in northern California, is from three California based handlers whose plants are 70, 245, and 300 miles, respectively, from Weed.

Minimum prices for Class I milk (3.5 percent butterfat) fixed by the State of California at the three plants located in Sacramento, Redding, and Oakland, were, at the time of the hearing, $5.72, $5.81, and $6, respectively. The State of California Class I price in Siskiyou County at that time was $6.19. While there are no handlers in Siskiyou County to which the $6.19 price was applicable, this is the price the Weed handled would have been required to pay if he were not subject to the Federal order.

Orders issued by the Bureau of Milk Stabilization of the California Department of Agriculture on April 21, 1971, increased the Class I price in various marketing areas throughout the State by 23 cents per hundredweight. Official notice is here taken of the State's action. Official notice is taken also that the Oregon-Washington order price applicable at the handler's plant in Weed is currently (July 1971) $6.56 per hundredweight.

Both the Weed handler and a Klamath Falls handler indicated that the problem in southern Oregon is related to the level of the Class I price rather than to pooling qualifications. The revised location adjustments hereinafter adopted in this decision will reduce the Class I price for milk received from producers at plants in southern Oregon and in California. In the case of the Weed handler the Class I price will be reduced by 19.5 cents. This adjustment should ameliorate the problem from which proponent seeks relief.

(b) *Pool supply plants.* The pooling requirements for supply plants should be changed.

A supply plant may now qualify for pooling in any month by shipping 30 percent of its dairy farmer receipts to pool distributing plants. In addition, a supply plant that was a pool plant in each month of August through February may qualify for pooling without further shipments in the following March through July.

Three supply plants, all operated by cooperative associations, have qualified as pool plants continuously since the inception of the order. Two are "close-in" plants and are among the largest manufacturing operations in the market. In addition to their pool milk receipts, both plants regularly receive substantial quantities of milk from ungraded farms for manufacture. The pool distributing plants to which they ship are in the vicinity of Portland, about 75 and 40 miles distant, respectively.

The third pool supply plant, which is in Idaho, has facilities only for receiving milk from its producer members for shipment to other plants. The pool distributing plants to which it ships are principally in the Portland area, about 420 miles away.

Of the three supply plants, two have experienced no difficulty in any month in qualifying as pool plants, indicating that the present percentage shipping requirements for pooling have not been burdensome for them. The Idaho receiving plant shipped about 45 percent of its producer milk receipts to pool distributing plants in 1970. One of the two close-in plants shipped more than 50 percent of its producer milk receipts to pool distributing plants in the same period.

Although the third supply plant qualified as a pool plant in each month, a spokesman for the operating cooperative indicated difficulty in meeting the present pooling qualifications. In some months, it has been necessary for this cooperative to receive producer members' milk, that normally is shipped directly from producers' farms to pool distributing plants, first as its supply plant in order to qualify such plant for pooling. During 1970, about 35 percent of the producer milk receipts at this plant was shipped to pool distributing plants.

The hearing notice proposals submitted jointly by five cooperatives (including the two operating the close-in pool supply plants), which together represent a majority of the producers on the market, would (1) increase the monthly shipping requirements for pooling a supply plant from 30 percent to 50 percent in August through February and to 40 percent in March through July, (2) remove the provision whereby a supply plant that was a pool plant in August–February retains automatic pooling status in the following March–July without shipments, (3) enable cooperatives to qualify supply plants based on their performance in the preceding 12 months, and (4) provide a type of "system pooling" for cooperatives.

Under such proposed system pooling, a cooperative which operates a supply plant and one or more other cooperatives (which could include those which operate no plants) would have their producer member deliveries made directly from farms to all pool distributing plants considered as having been received at and shipped from a supply plant(s) to such pool distributing plants for the purpose of qualifying for pooling all supply plants included in the system.

As proposed, a supply plant would qualify as a pool plant for the month if 50 percent of the member producer milk of all cooperatives in the system was received during the immediately preceding 12-month period at pool distributing plants, either directly from member producers' farms or by transfer from supply plants in the system. Fluid milk products processed and packaged at all supply plants in the system and disposed of as Class I milk on routes in the marketing area also would be treated as though shipped from the supply plants to pool distributing plants for this purpose. In like manner, fluid milk products and cream used at a supply plant to produce Class II products would be considered as a shipment from the supply plant to a pool distributing plant and counted for determining pooling qualification.

Another hearing proposal, by a cooperative operating a supply plant, would leave unchanged the present requirement that a supply plant ship 30 percent of its receipts during the month to qualify as a pool plant, but would remove the provision that accords pool plant status in March through July to a supply plant that qualified as a pool plant in the preceding August through February.

The hearing notice proposals for revising the supply plant pooling qualifications were modified at the hearing by the various proponents as follows: (1) The minimum monthly shipping percentage requirement for pooling a supply plant would be set at 45 percent of its dairy farm receipts August through February and 35 percent March through July; (2) a supply plant of a cooperative would be qualified as a pool plant for the month if 40 percent of the milk of its producer members (and of those of other cooperatives in a system) had been received in the immediately preceding 12-month period at pool distributing plants either directly from the producers' farms or by transfer from the supply plant(s); and (3) the route disposition of fluid milk products in the marketing area from a supply plant in which they were processed and packaged would be counted as though a shipment from the supply plant to a pool distributing plant.

The stated goal of the proponents for revising the pooling qualifications for supply plants is to increase the percentage of receipts that a supply plant must ship to pool distributing plants to qualify for pooling and thus insure participation in the pool of only those plants regularly and substantially supplying the market. However, the proposed standard for pooling the supply plant of a cooperative, by considering direct deliveries from the farms of producer members and those of members of other cooperatives as the equivalent of a supply plant shipment to a pool distributing plant, could qualify a supply plant for pooling without its being required to make even a token shipment to a pool distributing plant in any month. This procedure, proponents held, would enable the supply plant with manufacturing facilities to achieve greater operating efficiency and reduce uneconomic milk movements otherwise necessary to insure pooling eligibility.

The pooling standards for supply plants should be such as will insure that milk needed in the market for Class I use will be available at all times while at the same time not force milk to be shipped to the market center unnecessarily, particularly in the months of seasonally high production. It is also appropriate that the standard for pooling supply plants in this market be consonant with those in the other Federal order markets competing for supplies in the same region.

There is a significant overlapping of the milk production areas for the three Federal order markets in the Northwest. Some supply plants pooled under the Puget Sound and Inland Empire orders are so located that they could become pool supply plants under the Oregon-Washington order. One or more Oregon-Washington order supply plants similarly could become pool plants under either of the other orders.

Under the Puget Sound order, the monthly percentage shipping requirements for pooling a supply plant located outside the marketing area are 50 percent in October through December and 20 percent in January through September. A plant that shipped at least 50 percent of its receipts in October through December qualifies as a pool plant in the following January through September without further shipments in the latter months. Similar provisions are provided in the Inland Empire order.

The monthly percentage shipping requirement for pooling a supply plant under the Oregon-Washington order should be 50 percent for October through December, the same as in the Puget Sound order. For September, January, and February the shipping requirement should be 40 percent, and for March through August 30 percent. A supply plant that qualified as a pool plant in each month of September through February should qualify as a pool plant the following March through August without further shipments in such period.

The recommended decision provided monthly shipping percentage requirements for pooling a supply plant of 50 percent in September through February and 20 percent in March through August. It also provided, as adopted herein, for pooling in March through August a supply plant that was a pool plant in the preceding September through February.

A cooperative operating a supply plant took exception to the recommended decision's requirement that a supply plant must qualify as a pool plant in 6 months (September through February) to qualify for pooling without further shipments in the following March through August. It contended that the provisions in the two other Federal orders in the Northwest, whereby, a supply plant is accorded pool plant status in the following 9 months by qualifying as a pool plant in 3 specified months of seasonally low production, would be more appropriate for the Oregon-Washington order.

The monthly 50 percent shipping requirement for September through February provided in the recommended decision was also excepted to by the above mentioned cooperative. It stated that this requirement could result in removing from the pool two supply plants now on the market—those that shipped less than 50 percent of their receipts to pool distributing plants in 1970. The exceptor asserted that, with the market's rapidly increasing production relative to demand, pool supply plants are being required to handle an increasing share of the market reserve supply. Hence, the cooperative States, adopting a 50 percent monthly shipping requirement for September through February, as provided in the recommended decision, would jeopardize the pool plant status of two of the three pool supply plants that are now a regular and dependable part of the market supply.

Other producer associations took exception to reducing from 30 percent to 20 percent the present monthly shipping requirement for pooling in March through August. They claimed that there was no hearing proposal and no testimony at the hearing for a percentage shipping requirement in these months below 30 percent, that it has not worked a hardship on any plant currently on the market, and is a reasonable basis for qualifying a supply plant that would first associate itself with the Oregon-Washington market in any of these months.

October, November, and December, the 3 months for which a 50 percent shipping requirement is here adopted, are the months when production for the market is lowest relative to its needs. Class I utilization of producer milk in this 3-month period in 1970 was 62.8 percent. In the months for which a 40 percent shipping requirement is here adopted (September, January, and February) class I utilization of producer milk was 59.8 percent in this 3-month period ending with February 1971. Production relative to demand for the Oregon-Washington market is substantially higher in March through August than in the other months of the year. In 1970, class I utilization of producer milk in these 6 months (for which a 30 percent shipping requirement is adopted) was 54.3 percent.

Although shipments from two pool supply plants were less than 50 percent of their receipts for the year 1970, the percentage of their receipts shipped to pool distributing plants in the months of seasonally low production was substantially greater than in other months. Based on their experience under the order since its inception, these supply plants should have no difficulty in meeting the requirements for pooling herein adopted.

The shipping percentages provided by this decision will enable those supply plants who have been regularly supplying the market to maintain their pool plant status on a basis comparable to their past performance. At the same time, they provide a basis for pooling any other supply plant under the order by its meeting a reasonable standard of performance.

Only the milk received from dairy farmers eligible to be producers under the order should be used as the basis for calculating a supply plant's shipping percentage in determining its pool plant status. This would exclude as a receipt for such purpose any other source milk, such as that from a "dairy farmer for other markets" (as defined in this decision). Since only the milk from dairy farmers who would qualify as producers under the order could be pooled, it is appropriate that only such milk be considered as the dairy farm supply at a supply plant in determining its pool plant status.

Two or more supply plants should be permitted to have their combined receipts and disposition considered as a unit for the purpose of determining their qualification as pool plants to the extent that such plants are bona fide supply plants. Such an arrangement will serve the best interest of the market by providing for more efficient handling of the market's reserve supplies.

The route disposition in the marketing area of fluid milk products processed and packaged at a supply plant appropriately should be included in the plant's shipping percentage to determine its pool qualification. This was proposed by a cooperative operating a pool supply plant from which about 4 percent of its receipts is distributed on routes in the marketing area. The Class I sales represented by this route disposition represent supplies furnished to meet the Class I needs of the market to no less a degree than shipments in bulk from a supply plant to a pool distributing plant. Considering route disposition from a supply plant the equivalent of shipments to a pool distributing plant in qualifying it for pooling will improve equity in treatment among supply plants regularly supplying the market's Class I needs.

The milk of producer members of a cooperative delivered directly from their farms to pool distributing plants should, under certain conditions, be considered as a receipt at and a shipment from the cooperative's supply plant in qualifying it as a pool plant. Substantial quantities of milk are moved directly from their farms to pool distributing plants by producer members of cooperatives operating supply plants. When milk is not needed at the pool distributing plant to which it is customarily delivered, it is received either at the cooperative's supply plant or diverted by the cooperative to another plant. Milk movements directly to pool distributing plants from the farms of producer members of a cooperative operating a supply plant are coordinated with the operation of the supply plant in filling the needs of those pool distributing plants served by the cooperative.

Although recognition should be given to the service to the market provided by a cooperative operating a supply plant that meets the needs of pool distributing plants both by interplant shipments and by the direct delivery of milk from the farms of its members, it is likewise necessary that appropriate safeguards be provided to insure that the cooperative's plant is a bona fide supply plant. Otherwise, cooperatives could obtain pool status for plants that were not servicing the market as supply plants but which were instead bringing into the order pool unneeded quantities of milk for manufacture at the expense of producers that regularly supply the market.

To count the direct deliveries from producers' farms to pool distributing plants as receipts at and shipments from a cooperative's supply plant for pooling purposes without requiring a reasonable performance by the supply plant in discharging its basic function would tend to make meaningless any shipping percentage requirement for pooling and would be inconsistent with the basic qualifications for supply plants, i.e., to provide a quantitative measure for determining whether the plant is sufficiently engaged in furnishing the needs of this fluid market to warrant a share in the pool for the dairy farmers at such plant.

In view of the above, it is concluded that shipments made directly to pool distributing plants from the farms of producer members of a cooperative operating a supply plant be counted as a receipt at the supply plant and a shipment therefrom to a pool distributing plant to the extent that such dairy farmer shipments to pool distributing plants do not exceed the total quantity of fluid milk products shipped from the cooperative's supply plant to pool distributing plants during the same month.

2. *Diversion of producer milk.* (a) The total quantity of milk diverted by a cooperative from a pool plant to a nonpool plant in any month should be limited to that quantity of milk not greater than the quantity of its producer members' milk physically received at all pool plants during the month. Likewise, the quantity of nonmember producer milk diverted by the proprietary operator of a pool plant should not exceed the quantity of nonmember producer milk physically received at his plant(s).

Cooperatives and proprietary operators of pool plants may now divert without limit in March through July the milk of any producer whose milk had previously been received at a pool plant. In August through February, a cooperative may divert milk of any member producer whose milk was received at a pool plant at least 3 days during the month, but the total quantity diverted may not exceed the aggregate quantity received from all member producers at pool distributing plants. A proprietary operator of a pool distributing plant may likewise divert in August through February the milk of nonmember producers whose milk was received at his pool distributing plant(s) at least 3 days during the month, but diverted milk may not exceed the aggregate quantity of milk received from all such producers at his pool distributing plant(s) during the month.

Two or more cooperatives may have their allowable diversions computed on the basis of the combined deliveries of their producer members. There was no proposal to change this order provision or the requirement that milk must be received from a producer at a pool plant on at least 3 days during any month in which the aggregate quantities that a cooperative, or a pool plant operator other than a cooperative, may divert is limited to the aggregate quantity of milk physically received at pool plants.

A group of cooperatives proposed that diversions in the months of March through July be established on the same basis as is now applicable in August through February. They also proposed that no diversions be allowed from pool supply plants.

Of the three pool supply plants in the market, two maintain substantial manufacturing operations and have no need to divert producer milk. The third pool supply plant, operated by a cooperative, has no manufacturing facilities. The cooperative operating the latter plant urged that the order provide for diversions from pool supply plants on the same

basis as for pool distributing plants. It also opposed the proposal to limit diversions in the March through July period contending it would impede the efficient handling of producer milk not needed in the market for Class I use. That is, it would require much of the cooperative's member milk to move through the supply plant for transshipment to a manufacturing plant instead of moving directly from producers' farms to the manufacturing plant as diverted milk.

A proprietary handler opposed any change in the diversion provisions contending that the present provisions facilitate orderly marketing and are causing no problems. He also held that the more restrictive diversion provisions proposed by cooperative proponents would force upon him the additional expense of moving through his pool plant producer milk now moved directly from producers' farms to a nonpool plant as diverted milk when it is not needed for fluid use.

Because of variations in market needs and in production, the milk of all producers is not needed every day for processing as fluid milk. It is necessary that there be a reserve of qualified milk available to supply the fluctuating needs of the market. At times, therefore, when the milk of dairy farmers regularly supplying the market is not needed at the plants to which it is customarily delivered, it can be most economically handled by moving it directly as diverted milk from the farm to a nearby manufacturing plant, whether it be a pool plant or a nonpool plant.

Although the cooperatives that proposed changing the diversion provisions contend that the present provisions are inappropriate under current conditions, their testimony did not indicate the extent to which the diversion provisions were being used or how they might be adversely affecting the market. Instead, their testimony was directed on what could happen prospectively under the present diversion provisions, which allow unlimited diversions in March through July.

Three of the cooperatives (two of which operate pool supply plants) proposing more restrictive diversion provisions utilize a high proportion of their producer receipts for manufacture in their own pool plants, which are among the largest manufacturing facilities in the market. These plants have little need for diverting producer milk, especially in view of their proposal for qualifying supply plants on a system basis which is adopted in this decision. Thus, the proposals by these cooperatives relating to diversions apparently would affect primarily any pool supply plant that does not have manufacturing operations and thus may have need to divert milk to nonpool manufacturing plants.

To provide that no milk may be diverted from a supply plant would require the milk of producers who regularly ship to the one cooperative supply plant without manufacturing facilities to move through such plant for transshipment either to pool distributing plants or to nonpool manufacturing plants. The cooperative thus could not avail itself of the efficiencies associated with diversions directly from producers' farms to manufacturing plants.

Each supply plant now pooled has a substantial association with the fluid market in that it supplies significant volumes of milk for Class I use throughout the year. A supply plant whether it has manufacturing facilities or not may have need to divert reserve supplies of producer milk to other plants for manufacturing. Obviously, the operator of a pool supply plant without manufacturing facilities has greater need to divert milk than the operator of a pool supply plant with manufacturing facilities.

Requiring that each producer whose milk is diverted deliver to a pool plant at least 3 days during the month and limiting diversions of producer milk by cooperatives and proprietary handlers to the quantities delivered to pool plants in the same month are reasonable standards under current conditions in the Oregon-Washington market and will provide sufficient safeguard against the unwarranted association with the pool of milk intended for manufacturing use. Moreover, in conjunction with the present pooling provisions for distributing plants and the pooling provisions for supply plants adopted herein, they will implement orderly marketing by facilitating the movement of reserve supplies of producer milk to the most practicable outlet.

(b) Without appropriate safeguards, it would be possible for any handler, also supplying milk for Class I use to an unregulated plant, to handle such milk as nonpool milk when so disposed of and have it delivered to his pool plant as producer milk when not needed for such Class I use. In such event, the pool would be carrying the balancing supplies for such outside sales without sharing in the higher Class I values associated with such balancing supplies.

A handler having out-of-market bulk Class I sales could circumvent regulation of such outside sales in this manner. At least one supply plant by virtue of its location outside the regulated market could have a substantial potential to operate in this manner.

To insure against such an operation, the order should be modified to provide that milk of any dairy farmer which is purchased by a pool handler who during the month caused milk from the same farm to be delivered to a nonpool plant as other than producer milk may not acquire status as producer milk in such month. The dairy farmer should be designated a "dairy farmer for other markets" with respect to his deliveries to a pool plant.

Milk received at a pool plant as diverted milk from an other order plant should not be considered as milk from "dairy farmers for other markets" if such diverted milk is considered producer milk under the other order. Such milk would be classified and priced under the other order. The respective orders specifically prescribe the treatment of such milk by regulated plants.

Since the receipts from dairy farmers for other markets at a pool plant can be considered to represent surplus (Class III) production associated with the unregulated plant, such "other source" receipts should be allocated to the Class III classification at the pool plant.

Because the unregulated plant's requirements of the production of the dairy farmers supplying him will change throughout the week and seasonally as its Class I sales vary, a pool handler cannot depend on such dairy farmers as a regular supply for his Class I needs. Any such milk allocated to Class I at a pool plant would displace producer milk in such use, forcing it into the Class III classification. Accordingly, the milk of dairy farmers for other markets received at a pool plant should be assigned a Class III value in allocating the receipts from all sources at such plant against the overall utilization at the plant during the month.

Some producer associations excepted to the dairy farmer for other markets definition provided in the recommended decision and adopted in this decision. They urged that the definition include a dairy farmer shipping to a pool plant in any month of March through August if he had been a dairy farmer for other markets in any 2 months of the preceding September through February or if he had shipped to an unregulated plant for 30 days or more during that period. As envisioned by exceptors, a cooperative supplying both pool plants and unregulated plants could transfer its dairy farmers associated with an unregulated plant to a pool plant in the March through August period of seasonally high production. This presumes that dairy farmers supplying the Class I needs of an unregulated plant on a year-round basis may be readily shifted to a pool plant for an entire month at a time during the March through August period.

Those dairy farmers upon whom an unregulated handler depends for his class I needs are no less a part of his regular supply than are the producers regularly associated with a particular pool plant a part of this market's regular supply. It would be impractical in this market for a handler to shift dairy farmers for a full month to a pool plant from an unregulated plant to which they customarily deliver. Moreover, any dairy farmer coming on the Oregon-Washington market as a producer for the first time in the March through August period receives the base price for a substantially smaller portion of his deliveries than do other producers. Such a producer would receive a base for 45 percent of his deliveries in May, 50 percent in June, 55 percent in April and July, 60 percent in August, and 65 percent in March.

Excluding from the pool, by designating as a dairy farmer for other markets, a dairy farmer whose total production in any month of March through August is delivered to a pool plant, as proposed by exceptors, would not contribute to orderly marketing under current conditions in the market. Instead, such a provision could serve as an unwarranted barrier

to prevent dairy farmers from coming on the market as regular producers in any of the 6 months of March through August. The proposal, therefore, is denied.

(c) Producer milk diverted from a pool plant to another pool plant or another order plant and which is specifically designated for manufacture, should not be considered as a receipt at the transferee plant for the purpose of determining its qualification as a pool plant. Such diversions are now counted as a receipt at a supply plant, but not at a distributing plant, in determining the plant's pool status. There is no evident justification in this market at the present time to differentiate between distributing plants and supply plants in this regard.

A cooperative, whether or not it operates a pool plant, must market its members' milk that is in excess of handlers' needs and should be permitted to divert such milk from a pool plant to another pool plant if designated for Class III uses. Such diversions may now be made only by the operator of a pool plant.

Fully regulated plants with manufacturing facilities are often the most feasible and economical outlets for milk that is not needed for Class I purposes. Milk diverted from a pool plant at which it is customarily received to such a regulated plant where utilized in Class III is not a part of the transferee plant's regular supply and, therefore, should not be considered as a receipt at such plant in determining its qualification as a pool plant.

3. Location adjustments. Location adjustments (the amounts by which the Class I price and the uniform price for base milk are reduced for milk received at plants in specified geographic areas) should be based primarily on a plant's distance from the major consumption centers in the market.

Except for a 20-cent adjustment in seven specified counties, no location adjustments are now applicable at plants in the marketing area. Of the six marketing area plants with location adjustments, five, in central Washington, are located 159 to 240 miles from Portland; and the sixth, in eastern Oregon, is 191 miles from Portland.

A 20-cent location adjustment is applicable also in one county in central Washington outside the marketing area. At all other plants outside the marketing area (except in California) and more than 100 miles from Portland, the location adjustment is 15 cents plus 1.5 cents for each additional 10 miles.

For a California-based plant, the location adjustment is 15 cents plus an additional 1.5 cents for each 10 miles that such plant is more than 110 miles from the nearer of Klamath Falls or Medford, Oreg.

The two pool plants outside the marketing area at which location adjustments now apply are a supply plant at Meridian, Idaho, and a distributing plant at Weed, Calif., which plants are 420 and 350 miles, respectively, from Portland. The location adjustment at Meridian is 63 cents and at Weed 15 cents.

The Meridian handler, a cooperative, proposed that Walla Walla (which is 240 miles from Portland) be added as a basing point. That is, no location adjustments would apply at plants within 100 miles of Portland or Walla Walla. At all other plants the location adjustment would be 15 cents within 100–110 miles of the nearer of the two cities, plus 1.5 cents for each additional 10 miles therefrom. The handler also proposed revising the provisions specifying the milk to which Class I location adjustments apply when milk is moved between plants. Priority in this regard is now given to the shipping plant at which no location adjustment is applicable and then, in sequence, beginning with the plant having the least location adjustment. As proposed, all shipping plants would be assigned a pro rata share of the Class I utilization at the transferee plant for the purpose of computing the location adjustment applicable to the milk shipped.

Certain producers in the Yakima area held that the present 20-cent location adjustment applicable at the plants to which they deliver in central Washington is discriminatory and should be reduced or abolished. If location pricing is to be continued in the order, they proposed that the location adjustment provisions be based solely on the distance of a plant, wherever located, from the central market.

A cooperative operating six regulated plants under the order, two of which are subject to the 20-cent location adjustment, proposed elimination of the 20-cent location adjustment in central Washington and eastern Oregon.

In the Oregon-Washington market the matter of location pricing is essentially one of pricing milk to insure adequate supplies at the main population centers of the market where the great bulk of the supply is processed for Class I distribution.

Fluid milk products are bulky and perishable, and incur a relatively high transportation cost when they are moved a considerable distance. The location differential provisions should facilitate the movement of milk from supply plants to the points where processed for Class I uses. The applicable rates for such movement must be applied from appropriate basing points to accomplish this objective, and to promote uniformity in pricing among handlers. Such adjustment to prices should reflect the lesser value of milk at an outlying plant location, or when diverted to an outlying location.

Since location differentials apply only to outlying plant locations, no differential is applicable when the milk is received directly from the farm at a plant in the market center. The transportation or hauling cost on such milk is paid for by the individual producer. The hauling rate is not fixed by the order.

When milk is received at a supply plant located a considerable distance from the market, the handler rather than the producer incurs the additional cost of moving that milk from the outlying plant to the market for processing. Under these conditions, the value of producer milk delivered to a supply plant located some distance from the central market reduces in proportion to the distance and the cost of transporting such milk from the plant of first receipt to the distributing plant. Some distributing plants in this market also are located at various distances from the main centers of population. The prices at these plants will reflect values equivalent to those of supply plants similarly located.

An important aspect in establishing basing points for computing location differentials is to identify the major consumption centers in the marketing area. It is to these plants that the bulk of the milk supply must be channeled. Of the 2.44 million population (1970 census) in the 35 counties of the marketing area, 40 percent is in the four-county Portland metropolitan area. These four counties, together with Lane and Marion Counties, in which Eugene and Salem are located, account for 55 percent of the marketing area population. Portland, Eugene, and Salem, with populations of 375,000, 77,000, and 68,000, are the three largest cities in the marketing area.

The Portland area and the area in or near the various cities extending south to Eugene (110 miles from Portland) are the principal points at which milk is processed and packaged for distribution in the marketing area. The present location adjustment provisions do not currently reflect the actual market situation in that they do not adjust on a uniform basis for the cost of moving milk to plants in the central market from the more distant parts of the production area.

For milk received at a plant located 100–110 miles from the nearer of the county court house in Portland or the city hall in Eugene, the Class I and uniform prices (except for excess milk) should be reduced 15 cents per hundredweight. The rate of 1.5 cents for each 10 miles or fraction thereof beyond 110 miles, which is now used in the order, should be retained. This rate reasonably represents the cost of transporting milk in bulk over longer distances.

The present 63-cent location differential at the Meridian, Idaho, plant, which is farther from the central market than any other pool plant, would be unchanged by this decision.

The location adjustment of the Weed, Calif., handler, earlier discussed in this decision, whose marketing area route disposition is in southern Oregon, would be increased from 15 cents to 34.5 cents. Thus, his Class I milk cost would be decreased by 19.5 cents per hundredweight. Weed is 240 miles from Eugene.

The principal distributing plant of the major cooperative in the market, which is in Portland, receives milk from both nearby and distant producers. Some other plants operated by the same cooperative are at distant locations from Portland. Milk from producer members' farms in the same geographic areas is received by direct delivery at both the Portland plant and one or more of the cooperative's other plants. The hauling charges paid by this cooperative's producers range from 22 to 61.5 cents per

hundredweight, indicating the wide range in producers' hauling costs that results in moving milk directly from farms to nearby plants compared to shipping milk over long distance to the market center.

Yakima County is one of the principal production areas for the market. Plants in the Portland area and local distributing plants receive milk directly from farms in Yakima County. The prevailing hauling rates for such milk delivered to local plants range from 19 to 26 cents per hundredweight. The hauling charges for milk delivered directly to Portland plants from Yakima County farms range from 45 to 50 cents.

Most plants in the coastal counties of the marketing area in western Oregon are within 100 miles of the basing point (Portland or Eugene) for determining location adjustments and are not, therefore, subject to location adjustments. Several plants in these coastal counties, which are slightly more than 100 miles from the basing points, compete with relatively nearby handlers at whose plants no location adjustments apply.

Producer exceptions contend that, with the recommended decision's location adjustment provisions applicable to them, plants in the coastal areas slightly more than 100 miles from the basing points would be disadvantaged in their procurement vis-a-vis the operators of those relatively nearby plants at which no location adjustments apply. Irrespective of the amount of the location adjustment applicable to them under the order, the prices that coastal area plant operators slightly beyond the 100-mile limit would be required to pay their producers (in order to keep them) must be reasonably related to the prices paid by nearby plants at which no location adjustments apply. If producers delivering to coastal area plants at which location adjustments would apply (i.e., 100 miles or more from the nearer basing point) shipped their milk instead to nearby plants at which no location adjustments apply, they would incur increased hauling costs of approximately 10 cents per hundredweight.

In view of the above, it is concluded that the location adjustments applicable at plant locations 100 miles or more from the nearer basing point but within any of the coastal counties in the marketing area in western Oregon (Clatsop, Coos, Douglas, Lane, Lincoln, and Tillamook) in no case should exceed 10 cents. This recognizes the special marketing conditions in these coastal counties and will contribute to orderly marketing in the territory wherein coastal county handlers compete for supplies and sales with the operators of nearby plants at which no location adjustments apply.

A number of exceptions to the recommended decision stressed that it would be inequitable to apply a location adjustment of more than 20 cents at any plant in the marketing area, the maximum location adjustment now applicable at any marketing area plant. Exceptors claim that cost factors within the marketing area do not justify a location adjustment of more than 20 cents at plants so located.

Of the 54 plants regulated by the order in December 1970, location adjustments would be applicable to 12 of them at which no location adjustment presently apply. All 12 plants are in the southern Oregon portion of the marketing area. Specifying a maximum location adjustment of 20 cents at plants in the marketing area would change the location adjustment at four of these plants from that proposed in the recommended decision. The four distributing plants, located in Medford and Klamath Falls, would have been subject to location adjustments of 24 cents and 25.5 cents, respectively, under the recommended decision.

The Medford and Klamath Falls handlers compete for fluid sales with other regulated handlers in southern Oregon whose differentials are approximately 20 cents, based on their distance from the basing point at Eugene. Likewise, all such regulated handlers are in substantial competition in obtaining supplies from producers in a common production area.

The various plants in the eastern Oregon and central Washington segments of the marketing area where a 20-cent location adjustment now applies likewise are in substantial competition with each other in their common sales area. Such plants are located relatively near each other and have distribution in a number of the same urban areas in these outer fringes of the marketing area. Similarly, there is a significant overlapping of the production areas of these handlers and with areas from which Portland plants receive direct-shipped milk. Thus, Portland plants represent an alternative outlet for producers serving the local plants at a differential cost of transportation of about 20 cents per hundredweight.

The recommended decision's proposed location adjustment rates would have increased the 20-cent adjustment now applicable at these plants an average of 6 cents, ranging from 2.5 cents at the Toppenish plant to 14.5 cents at the Walla Walla plant. Exceptors claim that providing for location adjustments of more than 20 cents at plants in the marketing area would tend to disadvantage some of these plants in the outer edges of the marketing area vis a vis their competitors at whose plants lower location adjustments would apply.

In view of the above, specifying a maximum 20-cent location adjustment at any plant located in the marketing area will tend to insure the maintenance of market stability in the procurement of milk and its distribution by those handlers who are the principal suppliers of the urban areas in the outer fringes of the marketing area.

The specified maximum location adjustment at plants in the six eastern Oregon and central Washington counties of the marketing area should likewise be applicable at plants in Grant County, Wash. It is one of the seven counties at which a 20-cent location adjustment is now specified in the order.

A plant at Moses Lake (in Grant County) regulated under the Inland Empire order has substantial distribution in the Oregon-Washington marketing area in competition with Yakima County handlers. Although the Moses Lake plant is now an Inland Empire order pool plant, it could conceivably (because of its extensive distribution in the Oregon-Washington marketing area) become instead a pool plant under the Oregon-Washington order.

The location adjustment provided in the recommended decision, calculated at the location of the Moses Lake plant, is 42 cents. The location adjustment applicable at the Moses Lake plant under the Inland Empire order is 22 cents. Since the class I price under the two orders is the same, the cost of class I milk at the Moses Lake plant and at the Yakima County pool plants under the Oregon-Washington order (with the 20-cent location adjustment herein adopted) are virtually the same.

A handler exception to the recommended decision indicated that increasing the location adjustment (that would apply under the Oregon-Washington order at Moses Lake) from 20 cents to 42 cents would potentially accord the Moses Lake handler an undue advantage over the Oregon-Washington handlers with whom he competes, in both procurement costs and in sales. In effect, it was argued, a 42-cent location adjustment would give the Moses Lake handler a 22-cent advantage over his competitors.

It is concluded, therefore, that under current marketing conditions, maintaining the present 20-cent location adjustment in Grant County will contribute to orderly marketing in the central Washington portion of the marketing area, wherein there is extensive competition between the Moses Lake handler and handlers regulated by the Oregon-Washington order.

A proposal that all shipping plants be assigned a pro rata share of the Class I utilization at the transferee plant for the purpose of computing the location adjustment applicable to milk shipped is denied. The assignment of available Class I utilization at the transferee plant is now made first to receipts from plants at which no location adjustment is applicable and then in sequence beginning with receipts from the plant with the lowest location adjustment. This sequential assignment, which is commonly provided in Federal orders, discourages the unnecessary movement of milk between pool plants at the expense of producers.

The proposals to use Walla Walla as a basing point for determining location adjustments and to eliminate location adjustments in central Washington and eastern Oregon are denied. To provide f.o.b. central market pricing at these locations, or pricing on a basis different from that provided at similar locations in relation to the central market, would tend to defeat the purpose for which location differentials are provided.

4. *Class prices and classification*—(a) *Class I price.* The class I price (the basic

formula price for the preceding month plus $1.95) should not be changed.

Certain producer associations in the market proposed that the present Class I price be retained in the order. A handler proposed reducing the class I price differential 10 cents, to $1.85, to achieve the same Class I price as in the Puget Sound order.

The Oregon-Washington market draws supplies from an area overlapping the supply areas of the Puget Sound and Inland Empire markets. The evidence at the hearing did not indicate conditions in regard to competition for supplies or sales with these other Federal order markets significantly different from those that prevailed at the inception of the Oregon-Washington order. Accordingly, the proposal for a reduction of 10 cents in the Class I price is denied.

The recommended decision proposed a 3-cent increase in the Class I differential, from $1.95 to $1.98. The basis for this increase was to obtain the same return to producers for milk in Class I sales that they now receive, after giving consideration to the effect of the revised location adjustment provisions adopted in this decision. Exceptions were filed to this increase on the basis that the supply-demand conditions in this market do not warrant an increase in the Class I price. Such an increase, it was asserted, would tend to encourage an even further increase in the relatively high rate of production relative to the market's Class I needs. In view of these considerations, the Class I price is not increased by the decision.

(b) *Class II price.* No change should be made in the Class II price on the basis of this record.

A handler proposed that the Class II price (which is the Class III price plus 25 cents) be reduced 15 cents. Such a reduction is justified, it was claimed, because (1) production for the market is more than adequate to meet its Class I and Class II needs, and (2) the Class II price in some other Federal orders is less than in the Oregon-Washington order. Producer spokesmen opposed a decrease in the Class II price.

The principal Class II products (fluid cream and cottage cheese) are handled by milk dealers in conjunction with their fluid milk plant operations and move through the same retail and wholesale outlets as their Class I business. Order handlers demand a regular supply of producer milk for their Class II uses. The proponent for a lower Class II price did not show or claim that alternative supplies of milk or milk products for Class II uses are obtainable at less than the present Class II price. Neither did he establish that a reduction in the Class II price is otherwise warranted. Accordingly, the proposal is denied.

(c) *Class II products.* No action should be taken on the basis of this record on proposals to (1) classify half and half (now Class I) in Class II; and (2) classify ice cream, ice cream mix, frozen desserts, sour cream mixtures, and aerated cream products (all now Class II) in Class III.

A handler requested that the proposed classification changes be adopted because (1) a number of Federal orders now so classify these products and (2) including these products in the lower-price classifications would assist in halting the loss of sales of such products to nondairy substitutes. Producers opposed the classification changes, contending that they would result in a reduction in the payments they receive for their milk.

At the inception of the order, half and half was classified in Class I and cream in Class II. Because of its lower butterfat content, half and half has been in a much better competitive position with nondairy substitutes than fluid cream has been. Moreover, there has been no apparent significant decline in half and half sales in the market since the inception of the order. It is not evident that including it in a lower priced class will result in increased sales of the product.

The above Class II products for which the handler proposed a Class III classification constitute a substantial and continuing outlet for reserve supplies of producer milk. Handlers require a supply of high quality milk to produce these products. Although there is no general requirement throughout the area that Grade A milk must be used in the manufacture of these products, handlers use Grade A milk for the production of such Class II products.

It cannot be concluded that producers would realize any gain at the present time by incorporating the proposed classification changes in the order or that the order market would otherwise be benefited. Alternative supplies to produce the various Class II products for which a Class III classification is proposed are not readily available at less than the Class II price in the order. The classification of these products under the Puget Sound order, for example, where handlers compete for sales outlets with local handlers for such products, is the same as under the Oregon-Washington order.

(d) *Cream in inventory.* Cream on hand at a plant at the end of the month should be classified in Class II when in packaged form and in Class III when in bulk. This parallels the basis for classifying a handler's month-end inventory of fluid milk products, which are Class I when in packaged form and Class III in bulk.

When cream is held in packaged form, it is reasonable to presume that it is intended for distribution as a Class II product, its normal utilization in such form. In the following month, inventory on hand at the beginning of the month, should be allocated directly to a handler's Class II utilization.

The order does not now make provision for classifying cream in inventory. The change herein adopted will specify a more complete accounting of the total receipts and disposition of the skim milk and butterfat in all cream handled at their plants. This is because the cream handled in a plant derives from, and is intermingled with, the Class I operations of the handler.

As in the case of bulk fluid milk products, the final use of cream being held in bulk inventory is not necessarily apparent. The cream must be followed to its ultimate use, which may be in any class. Accordingly, it is reasonable to classify bulk cream in inventory in Class III and then apply a reclassification charge should the cream eventually be used in another class.

(e) *Interplant transfers.* If cream is transferred to another plant in packaged form, the skim milk and butterfat contained therein should be classified as Class II milk since it is moved in final form. The classification of cream when disposed of in bulk form however, is determinable only by following the movement of the cream to its final use. Thus, it is necessary that cream transferred in bulk form from a pool plant to another plant be classified in a manner similar to that used in classifying transfers of bulk fluid milk products. This is effectuated by the attached order language of this decision.

Transfers of both fluid milk products and cream in bulk from a pool plant to a nonpool plant, which transfers are not assigned to Class I, should be assigned first to the available Class III utilization at the nonpool plant and then to Class II. Such assignment of bulk fluid milk products is now made first to the nonpool plant's Class II utilization.

A cooperative proposed, with respect to fluid milk products, the change herein adopted. A nonpool plant which is an outlet for much of the cooperative's surplus producer milk produces substantial quantities of Class II and Class III products. The shipments to the manufacturing plant by the cooperative are intermingled at the manufacturing plant with milk received from its regular sources of supply. The manufactured products produced at the plant are not required to be made from milk from Grade A sources.

The change herein provided will facilitate the marketing of the reserve supplies of producer milk by enabling the disposal of such milk by regulated handlers to manufacturing outlets for Class III use even though there may be some Class II products manufactured at the plant. As a safeguard, however, the order should provide that the Class III classification of such transfers should be limited to the Class III utilization at the transferee plant.

To attempt to specify a priority to the Class II utilization in a nonpool manufacturing plant for fluid milk products and cream transferred to such a plant from a pool plant would be impractical. This is because such a nonpool plant's major supply would be ungraded milk, the price for which would tend to approximate the order Class III price.

It cannot be expected that the irregular supplies that a nonpool manufacturing plant might receive as surplus milk from Oregon-Washington handlers

would be worth more to it than the milk received from its regular suppliers. To provide a priority in the Class II utilization to receipts of order milk transferred to such plant would tend to disadvantage the regulated handler, since he would be obligated to the pool at the Class II price while receiving a manufacturing milk price (which would more nearly approximate the Class III price) for his surplus milk. Orderly marketing will be facilitated by this change.

The requirement that each container of cream for Class III uses transferred from a pool plant to a nonpool plant be "tagged" should be removed from the order. This provision accomplishes no purpose since the verification of the cream disposition must otherwise be established. Producers proposed the removal of the tagging requirement and there was no opposition to the proposal.

(f) *Evaporated milk.* As proposed, a Class III classification should be specified for producer milk used to produce evaporated milk. This will permit such use to remain as a competitive outlet for milk surplus to the needs of the Class I market. Evaporated milk made from milk priced under the order must compete in a national market with evaporated milk processed from other graded milk or from ungraded milk priced at a level comparable to the Class III price. The present order requires interpretation in this regard since it does not now specifically classify evaporated milk as a use in any class. There was no proposal to include it in a classification other than Class III.

5. *Expansion of the marketing area.* Lake County, Oreg., should not be added to the marketing area.

Sparsely populated Lake County (population 6,000) is in southern Oregon and is contiguous to Klamath County, which is in the marketing area.

The total Class I distribution in Lake County is from the plants of two producer-handlers, the Klamath County handler who proposed adding Lake County to the marketing area, and one other regulated handler.

The proponent stated that the proposal to add Lake County to the marketing area was not made to correct any existing marketing problem or in anticipation of resolving one that is likely to arise in the immediate future. He contended that adding Lake County to the marketing area would insure that any presently unregulated handler who extended his distribution into Lake County would have no advantage over presently regulated handlers.

The quantities of milk distributed by regulated handlers in Lake County are not a substantial portion of their total sales. Since there is no existing or apparent potential market disorder in unregulated Lake County which is affecting regulated handlers or their producers adversely, or is adversely affecting administration of the order, there is no basis for adding Lake County to the marketing area at this time. Accordingly, the proposal for extension of this area is denied.

6. *Computation of producer bases.* The 4 months in the preceding January–December period in which the average daily receipts of total producer milk were lowest (instead of the presently designated 5 months of August through December), should be used for determining the bases on which producers will be paid for their deliveries in the 12 months beginning February 1 of each year. As a corollary change, to accommodate the reduction in the base-making period from 5 months to 4 months, the minimum number of days of a producer's production that must be received at a pool plant or diverted as producer milk in the base-making period should be reduced from 120 days to 90 days.

The change in the base-making period herein adopted was proposed by a producer and was supported by various producer groups at the hearing. They contended that designating specific consecutive months as the base-making period encourages an unduly accelerated rate of production in such months relative to other months; and that using the 4 lowest months of total production as a base-making period is desirable in this market, since a large proportion of the producers on the market have historically been accustomed to such a base-making period.

In recent years the 4 lowest months of production fell within the months of October through February. August and September, which months are now included in the base-making period, have not apparently been among the 4 lowest months of production.

It can reasonably be expected that there will be some variation from year to year in the four months of the year in which the average daily producer deliveries will be lowest. Utilizing such 4 lowest months of production in determining producer bases will provide a more suitable period for such purpose than the specifically designated 5-month period of August through December now contained in the order.

The recommended decision provided that producer deliveries in January through December 1972 would be first used in determining producer bases on deliveries during the 4 lowest months of production. This would result in producers having bases assigned to them based on their deliveries during 1972 to be effective for the 12 months beginning February 1, 1973.

Exceptions on behalf of the great majority of producers under the order requested that the bases to become effective February 1, 1972 be based on their deliveries in the 4 lowest months of production in January through December 1971. This action, which was widely supported by producers and was not opposed at the hearing, is adopted in this decision.

Some producers urged that the base-making period for each individual producer be the average of his daily deliveries during his four lowest months of production. There is no basis for concluding that incorporating such provision in the order would tend to encourage even production throughout the year, a principal purpose for which a base plan was instituted in the market. On the basis of past market experience, it can be expected that the 4 months of the lowest production for the market will almost certainly fall within the 5-month period when milk is shortest relative to the market's needs. To enable a producer to establish a base on the basis of his deliveries in other months would serve no practical purpose and would tend to defeat, rather than effectuate, the intent of the base-excess plan in the order. The proposal, therefore, is denied.

7. *Application of the order to producer-handlers.* No change should be made at this time in the order provisions relating to producer-handlers.

The order designates as a producer-handler any person who operates a dairy farm and a milk processing plant from which fluid milk products are distributed on routes in the marketing area. In addition to the production of his own farm, such person may receive from pool plants packaged fluid milk products, other than whole milk, in an amount not in excess of an average of 100 pounds per day. He must also provide proof satisfactory to the market administrator that care and management of the dairy animals and other resources necessary to produce the entire volume of fluid milk products (excluding receipts from pool plants) and the operation of the processing and distribution business is his personal enterprise and is operated at his sole risk.

Producers proposed that the producer-handler definition be rewritten in a more detailed form as a means of further assuring that exemption from the pricing and pooling provisions of the order would be accorded only those persons who are bona fide producer-handlers. Except as it relates to transactions between producer-handlers and vendors, the proposed definition does not purport to change basically the requirements to qualify as a producer-handler.

Prior to and since the inception of the order in January 1970, Class I sales of producer-handlers have been a significant part of the total Class I sales in the market. About 7 percent of the total Class I sales in the market is made by approximately 75 producer-handlers. In February 1971, the latest month for which data were available at the hearing, producer-handler Class I sales were 3.7 million pounds. The total producer milk pooled in Class I that month was 48.7 million pounds. There has been no significant change in the number of producer-handlers under the order since its inception.

The principal change in the application of the order to milk of producer-handlers proposed by producers would require that payment be made to the producer-settlement fund at the difference between the Class I and Class III prices on a producer-handler's sales of fluid milk products to a vendor who also obtains packaged fluid milk products from a pool plant in the same month.

The vendor would be responsible for making any payment thus incurred to the producer-settlement fund. A vendor would be defined as any person who does not operate a plant but who engages in the business of receiving fluid milk products from a plant for resale to retail or wholesale consumers via a mobile delivery vehicle.

The proposal to require a vendor to make payment to the producer-settlement fund on his purchases from a producer-handler was opposed by a major handler in the market. He contended that requiring such a payment in this market would unwarrantedly discriminate against vendors and their suppliers. A principal vendor in the market supplied by the handler has over an extended period of time relied on both the handler and a producer-handler for his needs on a regular basis.

The basis for the producer's proposal to require a payment to the producer-settlement fund on producer-handler's sales to a vendor is that producer-handlers could use vendors as outlets for the milk which is surplus to a producer-handler's Class I needs. Producers contended that this results in a producer-handler's surplus displacing Class I sales of pool milk. The record evidence did not establish, however, that this was happening to any disruptive extent in the market at the present time.

Although the apparent purpose of the producers' proposal is to provide more definitive requirements in the order for obtaining exemption as a producer-handler under the order than is now provided, their testimony was directed at what might develop under certain conditions instead of under existing conditions in the market. It was not shown that the present provisions for obtaining exemption from the order as a producer-handler are inadequate under current conditions in the market. Producer-handlers under the order have been relying basically on their own production for their Class I needs and have been marketing their own surplus. There is no indication that the activities of the producer-handlers are causing instability in the market or that they, as a group, are engaging in disruptive marketing practices.

The proposal to require a vendor supplied by both a producer-handler and a pool plant to pay the producer-settlement fund the difference between the Class I and Class III prices on his purchases from a producer-handler should not be adopted. Although producers stated that a vendor receiving milk from both a producer-handler and a pool plant in the same month affords producer-handlers an unwarranted advantage at the expense of the pool, the testimony failed to indicate to what extent, if any, such advantage was currently being realized by producer-handlers in the market.

The proposal to incorporate a vendor definition in the order and to designate a vendor as a handler therefore is denied. The proposal to this effect was made in connection with the proposal to require payments by a vendor on his purchases from a producer-handler. Since the proposal to provide for such a payment is not adopted by this decision, no purpose would be served by defining a vendor in the order and designating him as a handler.

8. *Miscellaneous changes*—(a) *Handler operating two or more pool plants.* Under certain conditions, the operation of each plant of a handler operating two or more pool plants should be considered separately in determining the classification of his producer milk receipts during the month.

At the present time, such a handler's classification of producer milk, and his net pool obligation, are calculated on the basis of the combined operation of his pool plants.

A handler operating two pool distributing plants proposed that each plant be considered as a separate unit for purposes of determining his net pool obligation. The handler, a corporation which operates two plants as separate entities, claims that combining the operations in the filing of monthly reports to the market administrator, as presently required, unnecessarily complicates the ascertainment of the obligation for producer milk allocable to each plant.

If a handler operating two or more pool plants receives during the month fluid milk products from either an unregulated supply plant or another order plant that is allocated to Class I, the handler's net pool obligation should continue to be computed on the basis of combining the operations of his plants. Otherwise, such a multiple plant operator could exploit the pool by allocating receipts from unregulated supply plants and other order plants to his plant with the highest Class I utilization, and thereby reduce the Class I that would be allocated to his producer milk.

Unless fluid milk products are received by a multiple plant handler from unregulated supply plants and/or other order plants, there is no need to require him to consider his total operation as a unit in determining his obligation for producer milk. If a multiple plant handler receives no fluid milk products during the month from unregulated supply plants or other order plants, the integrity of the classification plan will not be impaired by his computing his obligation for producer milk separately for each pool plant.

(b) *Receipts of fluid milk products priced by an order at a pool plant from an unregulated supply plant.* As proposed by producers, no pool charge should be made on fluid milk products received at a pool plant from an unregulated supply plant when it is determined that such fluid milk products have been priced as Class I under this or any other Federal order. When an unregulated supply plant makes Class I purchases from a regulated plant under any order, the obligation to the order pool at the Class I price has been met, and there is no justification for any additional charge. On any unpriced milk received from an unregulated supply plant, the Oregon-Washington order will continue to provide for payment to the producer-settlement fund at the difference between the Class I and uniform prices.

(c) *Offsetting payments due from against payments due to the producer-settlement fund.* The payments due from handlers for milk priced under the order are paid to the market administrator for deposit into the producer-settlement fund. The monies thus received are paid out of such fund for distribution to producers according to their deliveries. In some instances, handlers to whom the market administrator is required to make payment from the producer-settlement fund for distribution to producers may owe money to the producer-settlement fund, usually as a result of an audit adjustment. Under such circumstance, the market administrator should offset the payment due a handler, or any other person, from the producer-settlement fund against payments due from such person. It would be impractical to do otherwise. Accordingly, the order should specify that the market administrator shall offset the payment due to any person from the producer-settlement fund against payments due from such person.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

Evidence on a proposal to make certain changes in the order provision relating to the computation of producer bases was excluded from the record by the presiding officer. Offer of proof made by the party submitting the proposal has been reviewed. The action taken by the presiding officer on it is hereby reaffirmed on the basis that it was not within the scope of the hearing.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices

as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RULINGS ON EXCEPTIONS

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Oregon-Washington marketing area, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

REFERENDUM ORDER TO DETERMINE PRODUCER APPROVAL; DETERMINATION OF REPRESENTATIVE PERIOD; AND DESIGNATION OF REFERENDUM AGENT

It is hereby directed that a referendum be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 et seq.), to determine whether the issuance of the attached order as amended and as hereby proposed to be amended, regulating the handling of milk in the Oregon-Washington marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of such referendum is hereby determined to be August 1971.

The agent of the Secretary to conduct such refendum is hereby designated to be James A. Burger.

Signed at Washington, D.C., on November 11, 1971.

RICHARD E. LYNG,
Assistant Secretary.

Order[1] *amending the order, regulating the handling of milk in the Oregon-Washington marketing area.*

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Oregon-Washington marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Oregon-Washington marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on August 24, 1971, and published in the FEDERAL REGISTER on August 27, 1971 (36 F.R. 17040) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein subject to the following modifications in §§ 1124.2, 1124.9, 1124.22, 1124.41, 1124.51, 1124.52, and 1124.65.

1. A new § 1124.2 is added as follows:

§ 1124.2 Dairy farmer for other markets.

"Dairy farmer for other markets" means any person who produces milk in compliance with the inspection requirements of a duly constituted health authority and from whose farm milk is received by a pool handler, if such handler caused milk from the same farm that was produced in compliance with the inspection requirements of a duly constituted health authority to be delivered during the month to a nonpool plant (except an other order plant) as other than producer milk.

2. Section 1124.7 is revised as follows:

§ 1124.7 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any person in his capacity as the operator of a partially regulated distributing plant;

(c) A cooperative association with respect to milk of its member producers which is diverted from a pool plant for the account of such cooperative association;

(d) A cooperative association with respect to milk of its member producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association;

(e) A producer-handler; or

(f) Any person who operates another order plant described in § 1124.61.

3. Section 1124.9 is revised as follows:

§ 1124.9 Pool plant.

"Pool plant" means any plant meeting the conditions of paragraph (a) or (b) of this section except the plant of a handler exempt pursuant to § 1124.60 or § 1124.61: *Provided,* That if a portion of a plant is physically separated from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section:

(a) A distributing plant which during the month:

(1) Has route disposition (except filled milk) in the marketing area of 15 percent or more of its total receipts of Grade A milk (except packaged fluid milk products from other plants qualified under this paragraph, filled milk, and milk received at such plant as diverted milk from another plant, which milk is classified in Class III under this order and is subject to the pricing and pooling provisions of this or another order issued pursuant to the Act); and

(2) Has total route disposition, except as filled milk, both inside and outside the marketing area, of 30 percent or more of such receipts: *Provided,* That all

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

distributing plants operated by a handler may be considered as one plant for the purpose of meeting the percentage requirements of this subparagraph if the handler submits a written request to the market administrator prior to the delivery period for which such consideration is requested.

(b) A supply plant from which not less than 50 percent in any month of October, November, and December, not less than 40 percent in any month of September, January, and February, and not less than 30 percent in any month of March through August, of the total quantity of milk that is physically received at such plant from dairy farmers eligible to be producers pursuant to § 1124.11 (excluding milk received at such plant as diverted milk from another plant, which milk is classified in class III under this order and is subject to the pricing and pooling provisions of this or another order issued pursuant to the Act) or diverted as producer milk to another plant pursuant to § 1124.13, is shipped in the form of a fluid milk product (except as filled milk) to a pool distributing plant or is a route disposition in the marketing area of fluid milk products (except filled milk) processed and packaged at such plant; *Provided,* That:

(1) With respect to a supply plant operated by a cooperative association, the producer milk of its members which it caused to be delivered directly from their farms to pool distributing plants shall, for the purpose of this paragraph, be considered as a receipt at the cooperative's supply plant and a shipment from the supply plant to pool distributing plants to the extent that the total quantity of the producer milk received at pool distributing plants directly from such producers' farms does not exceed the total quantity of milk shipped during the same month from the cooperative's supply plant to pool distributing plants;

(2) A plant which qualified as a pool plant pursuant to this paragraph in each month of September through February shall be a pool plant in each of the following months of March through August unless a written application is filed with the market administrator prior to the first day of any such month requesting that the plant be designated a nonpool plant for such month and each subsequent month through August during which it would not otherwise qualify as a pool plant; and

(3) For the purpose of this paragraph, the operations of two or more supply plants may be combined and considered as the operation of one plant if so requested in writing to the market administrator by the handler(s) operating such plants prior to the first day of the month for which such consideration is requested.

4. Section 1124.11 is revised as follows:

§ 1124.11 Producer.

"Producer" means any person, except a dairy farmer for other markets or a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk approved by a duly constituted health authority for fluid consumption, which milk is received at a pool plant or diverted therefrom within the limits set forth in paragraphs (a) and (b) of this section and subject to paragraphs (c), (d), (e) and (f) of this section. The term shall not include such person with respect to milk received at a pool plant from another order plant by diversion if both buyer and seller have requested Class III milk classification in the reports of receipts and utilization filed with the respective market administrators:

(a) A cooperative association may divert for its account to a nonpool plant the milk of any producer whose milk has been received previously at a pool plant and from whom at least three deliveries are received at a pool plant during the month, except that the aggregate quantity diverted may not exceed the aggregate quantity received during the month from all such producers at pool plants. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed such a request in writing with the market administrator on or before the first day of the month such agreement is effective. This request shall specify the basis for assigning any over-diverted milk to the producer members of each cooperative association according to a method approved by the market administrator;

(b) A handler in his capacity as the operator of a pool plant may divert for his account to a nonpool plant the milk of any producer whose milk has been received previously at a pool plant and from whom at least three deliveries are received during the month at his pool plant(s) and who is not a member of a cooperative association which is diverting milk pursuant to paragraph (a) of this section during the month, except that the aggregate quantity diverted may not exceed the aggregate quantity received during the month from all producers at his pool plant(s);

(c) In the event milk receipts from dairy farmers are diverted in excess of the applicable percentages pursuant to paragraphs (a) and (b) of this section, the diverting handler shall designate the dairy farmers whose milk was overdiverted and such overdiversions shall not be considered producer milk. If the handler fails to make such designation, only the milk of the dairy farmers which is physically received at a pool plant(s) by the diverting handler shall be producer milk for such month;

(d) For the purposes of the requirements of § 1124.9, milk diverted for the account of the operator of a pool distributing plant, except an operator which is also a cooperative association diverting milk in the same month pursuant to paragraph (a) of this section, shall be included in the receipts of the pool plant from which diverted;

(e) For the purposes of location adjustments pursuant to §§ 1124.52 and 1124.83, any milk diverted shall be considered to have been received at the location of the plant to which diverted; and

(f) Milk moved from producers' farms to a nonpool plant may be diverted producer milk only if it is not fully subject to the pricing and pooling provisions of the other order and if both the diverting handler and the operator of the other order plant request Class IIII (or Class II) classification.

5. Section 1124.13(a)(3) is revised as follows:

§ 1124.13 Producer milk.

* * * * *

(a) * * *

(3) Diverted by the operator of such pool plant or by a cooperative association pursuant to § 1124.7(c) to a pool plant if both the diverting handler and the operator of the plant to which the milk is diverted have requested Class III classification on such diverted milk in their reports filed pursuant to § 1124.30;

* * * * *

6. Section 1124.14 is revised as follows:

§ 1124.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Fluid milk products and cream from any source except:

(1) Producer milk; and

(2) Fluid milk products and cream from pool plants;

(b) Products other than fluid milk products and cream from any source (including those produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month; and

(c) Any disappearance of any product other than a fluid milk product or cream that is in a form in which it may be converted into a Class I or Class II product and which is not otherwise accounted for under the order.

7. In § 1124.22 paragraphs (l), (m), and (n) are revised as follows:

§ 1124.22 Additional duties of market administrator.

* * * * *

(l) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1124.46(a)(10) and the corresponding step of § 1124.46(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or cream from an other order plant, the classification to which such receipts are allocated pursuant to § 1124.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products or cream to an other order plant the classification to which such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler, and, as necessary, any changes in

such classification arising from the verification of such report.

8. Section 1124.30(a)(4) is revised as follows:

§ 1124.30 Reports of receipts and utilization.

* * * * *

(a) * * *

(4) The pounds of skim milk and butterfat contained in all fluid milk products and cream on hand, separately in bulk and in packages, at the beginning and at the end of the month;

* * * * *

9. In § 1124.41, a new subparagraph (4) is added in paragraph (b) and subparagraphs (1) through (5) in paragraph (c) are revised as follows:

§ 1124.41 Classes of utilization.

* * * * *

(b) * * *

(4) In packaged cream in inventory at the end of the month; and

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce butter, butteroil, anhydrous butterfat, evaporated milk, condensed milk, or condensed skim milk (either plain or flavored) used to produce another Class III product in a pool plant or in a nonpool plant located within the marketing area, condensed buttermilk, cheese, except cottage cheese, sterilized products in hermetically sealed all-metal containers, nonfat dry milk, dried whole milk, livestock feed and blends of dried milk products;

(2) Contained in products which contain 6 percent or more of nonmilk fat or oil;

(3) In fluid milk products and cream dumped after prior notification to and opportunity for verification by the market administrator;

(4) Represented by the nonfat solids added to a fluid milk product which is in excess of an equivalent volume of such product prior to the addition;

(5) In inventory of bulk fluid milk products and bulk cream on hand at the end of the month;

* * * * *

10. Section 1124.44 is revised as follows:

§ 1124.44 Transfers.

Skim milk or butterfat shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk if transferred in the form of a fluid milk product or cream from a pool plant to the pool plant of another handler (or any pool plant if allocations pursuant to § 1124.46 are on an individual plant basis) subject to the following conditions:

(1) The skim milk or butterfat so assigned to each class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1124.46(a)(10) and the corresponding step of § 1124.46 (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1124.46(a)(5) and the corresponding step of § 1124.46 (b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I milk utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1124.46(a)(9) or (10) and the corresponding steps of § 1124.46(b), the skim milk and butterfat so transferred shall be classified so as to assign to producer milk the greatest possible Class I utilization at both plants;

(b) As Class I milk if transferred as a fluid milk product in packaged form to a nonpool plant which is not an other order plant;

(c) As Class I milk if transferred or diverted in bulk in the form of a fluid milk product or cream to a nonpool plant that is not an other order plant, a producer handler plant or an exempt plant unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagarph (3) of this paragraph:

(1) The transferring or diverting handler claims classification in Class II or Class III in his report submitted pursuant to § 1124.30;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification, and

(3) The skim milk and butterfat so transferred or diverted shall be classified on the basis of the following assignment of utilization from such nonpool plant in excess of receipts of packaged fluid milk products from pool plants and other order plants;

(i) Any Class I milk utilization disposed in the marketing area on routes shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(ii) Any Class I milk utilization disposed of in the marketing area of another order on routes issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I milk utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I milk utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants;

(iv) To the extent that Class I milk utilization is not so assigned to it, the skim milk and butterfat so transferred or diverted shall be classified as Class III milk to the extent of such uses at the plant and then as Class II milk;

(v) To the extent that Class I or Class III utilization is not assigned to it, the skim milk and butterfat in cream so transferred shall be classified as Class II milk; and

(vi) If any skim milk or butterfat is transferred to a second plant under this paragraph, the same conditions of audit, classification, and allocation shall apply;

(d) As follows, if transferred or diverted in the form of a fluid milk product or cream to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph;

(1) If transferred in packaged form, classification shall be in the classes to which allocated under the other order;

(2) If transferred or diverted in bulk form, classification shall be in Class I milk, if allocated as a fluid milk product under the other order to Class I milk; in Class II milk, if allocated to Class II milk under an order which provides three classes; or in Class III milk, if allocated to Class III milk under the other order or if allocated to Class II milk under an order which provides only two classes (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class III milk to the extent of the Class III milk utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I milk subject to adjustment when such information is available;

(5) If the form in which any fluid milk product is transferred to any other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1124.41; and

(e) As Class I, if transferred as a fluid milk product to a producer-handler or to an exempt plant under § 1124.60 (a) or (b).

11. Section 1124.45 is revised as follows:

§ 1124.45 Computation of skim milk and butterfat.

For each month the market administrator shall correct for mathematical and

other obvious errors reports of receipts and utilization submitted pursuant to § 1124.30 and shall compute the skim milk and butterfat in each class at all pool plants of such handler and the pounds of skim milk and butterfat in each class which was received from producers by a cooperative association handler pursuant to § 1124.7(d) and was not received at a pool plant.

(a) For the purpose of this section, producer milk for which a cooperative association is the responsible handler pursuant to § 1124.7(d) shall be treated separately from the operations of any pool plant(s) operated by such cooperative association for the purpose of allocation pursuant to § 1124.46 and computation of obligation pursuant to § 1124.70; and

(b) If no fluid milk products to be allocated pursuant to § 1124.46(a) (9) or (10) were received at any pool plant of a handler, the total pounds of skim milk and butterfat, respectively, in each class shall be computed for each pool plant of such handler and allocation pursuant to § 1124.46 and computation of obligation pursuant to § 1124.70 shall be made separately for each pool plant of the handler.

12. Section 1124.46 is revised as follows:

§ 1124.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1124.45, the market administrator shall determine each month the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III pursuant to § 1124.41(c)(6);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid products received in packaged form from other order plants as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) With respect to a plant that was fully regulated in the preceding month under this or any other Federal milk order providing for a similar allocation of beginning inventories of packaged fluid milk products:

(i) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in packaged fluid milk products in inventory at the beginning of the month; and

(ii) Subtract from the pounds of skim milk in Class II the pounds of skim milk in packaged cream in inventory at the beginning of the month;

(5) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product or cream;

(ii) Receipts of fluid milk products (except filled milk) and cream for which Grade A certification is not established, or which are from unidentified sources;

(iii) Fluid milk products received or acquired for distribution from a producer-handler as defined under this or any other Federal order;

(iv) Receipts of milk from dairy farmers for other markets;

(v) Receipts of fluid milk products from an exempt plant; and

(vi) Receipts of reconstituted skim milk in filled milk from unregulated supply plants;

(6) Subtract, in sequence beginning with Class III milk in the order specified below, from the pounds of skim milk remaining in Class III milk and Class II milk:

(i) The pounds of skim milk in receipts of fluid milk products and cream from unregulated supply plants for which the handler requests Class III utilization, but not in excess of the skim milk remaining in Class III and Class II; and

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (5)(vi) of this paragraph, which are in excess of the pounds of skim milk determined as follows:

(a) Multiply the pounds of skim milk remaining in Class I milk by 1.25; and

(b) Subtract from the result the sum of the pounds of skim milk in producer milk, in receipts from pool plants of other handlers (or any pool plant if allocation is on an individual plant basis) and in receipts in bulk from other order plants;

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from another order plant in excess of similar transfers or diversions to such plant, but not in excess of the pounds of skim milk remaining in Class III milk (and Class II milk), if Class III utilization was requested by the transferee handler and the operator of the transferor plant requests the lowest class utilization under the order;

(7) Subtract from the pounds of skim milk remaining in each class in series beginning with Class III milk the pounds of skim milk in inventory of bulk fluid milk products and bulk cream (and for the first month in which a plant becomes a pool plant, the pounds of fluid milk products and cream in packaged form) on hand at the beginning of the month;

(8) Add to the remaining pounds of skim milk in Class III milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(9) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraphs (5)(vi) or (6) (i) or (ii) of this paragraph;

(10) Subtract, beginning with Class III milk, from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case, of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (6)(iii) of this paragraph pursuant to the following procedure:

(i) Such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class III milk and Class II milk combined:

(a) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1124.22(1); or

(b) The pounds of skim milk remaining in each class at a pool plant(s) of the handler;

(11) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received from pool plants of other handlers (or any pool plant if allocation is on an individual plant basis) by transfer or diversion according to the classification assigned pursuant to § 1124.44(a); and

(12) If the remaining pounds of skim milk in all classes exceed the pounds of skim milk contained in milk received from producers, and from cooperative associations pursuant to § 1124.7(d), subtract such excess from the remaining pounds of skim milk in series beginning with Class III milk. Any amount so subtracted shall be known as overage:

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

13. Section 1124.52 is revised as follows:

§ 1124.52 Location adjustment to handlers.

(a) The Class I price for producer milk and other source milk (for which a location adjustment is applicable) at a plant 100 miles or more from the nearer of the Multnomah County Court House in Portland, Oreg., or the city hall in Eugene, Oreg., by the shortest hard-surfaced highway distance as determined by the market administrator, shall be reduced 15 cents and an additional 1.5 cents for each 10 miles or fraction thereof that

such distance exceeds 110 miles: *Provided,* That the location adjustment applicable at a plant located 100 miles or more from the nearer of such basing points but within the Oregon counties of Clatsop, Coos, Douglas, Lane, Lincoln, and Tillamook shall be not more than 10 cents and the location adjustment applicable at a plant located elsewhere in the marketing area or in Grant County, Wash., shall be not more than 20 cents; and

(b) For the purpose of calculating location adjustments, receipts of fluid milk products from pool plants shall be assigned any remainder of Class I milk at the transferee plant that is in excess of the sum of receipts of milk from producers and handlers purusant to § 1124.7 (d) at such plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made first to receipts from plants at which no location adjustment is applicable pursuant to this section and then in sequence beginning with the plant with the lowest applicable location adjustment.

14. Section 1124.62(b)(2) is revised as follows:

§ 1124.62 Obligations of handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

(2) Deduct the respective amounts of skim milk and butterfat received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act; and

(ii) From a nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order;

* * * * *

15. Section 1124.65 is revised as follows:

§ 1124.65 Computation of producer bases.

Subject to the rules set forth in § 1124.66, the market administrator shall determine bases for producers in the manner provided in paragraphs (a) and (b) of this section:

(a) The daily base of each producer whose milk was received at a pool plant(s) or diverted as producer milk from a pool plant on not less than 90 days in the 4 months in each January-December period in which the average daily receipts of total producer milk are lowest shall be an amount computed by dividing such producer's total pounds of milk delivered in such base-earning period by the number of days of production represented by his deliveries. The base so computed shall be recomputed each year, shall become effective on the first day of February next following, and shall remain in effect through January of the next succeeding year: *Provided,* That for any dairy farmer:

(1) For whom information concerning deliveries during the base-earning period is available to the market administrator and who becomes a producer as a result of the plant to which his milk was delivered during the base-earning period subsequently being qualified as a pool plant, a daily base shall be computed pursuant to this paragraph; and

(2) Who was a producer-handler during the base-earning period, his base shall be the daily average of his own production of milk for 90 days or more during the base-earning period; and

(b) Any producer who is not eligible to receive a base computed pursuant to paragraph (a) of this section, shall have a monthly base computed by multiplying his deliveries to a pool plant(s) during the month by the appropriate monthly percentage in the following table:

January	70	July	55
February	70	August	60
March	65	September	60
April	55	October	65
May	45	November	70
June	50	December	70

16. Section 1124.66(a)(2) is revised as follows:

§ 1124.66 Base rules.

(a) * * *

(2) If such conveyance takes place after August 1 in 1971 (and after Jan. 1 in subsequent years), all milk delivered to pool plant(s) between August 1 in 1971 (and Jan. 1 in subsequent years) and the last day of the base-earning period specified in § 1124.65(a), inclusive, from the same herd (whether by the transferor or transferee producer) shall be utilized in computing the base of the transferee producer pursuant to § 1124.65(a);

* * * * *

17. Section 1124.70 is amended as follows:

§ 1124.70 Computation of the net pool obligation of each pool handler.

* * * * *

(c) Add the amount obtained from multiplying the Class III price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1124.46(a)(7) and the corresponding step of § 1124.46 (b) for the current month.

(d) Add the amount obtained by multiplying the difference between the Class I price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1124.46(a)(4) and the corresponding step of § 1124.46(b). If the Class I price for the current month is less than the Class I price for the preceding month, the result shall be a minus amount;

(e) Add an amount equal to the difference between the Class I and Class III price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1124.46(a)(5) and the corresponding step of § 1124.46(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1124.46(a)(5)(vi) and the corresponding step of § 1124.46(b) the Class I price shall be adjusted to the location of the transferor plant (but the adjusted price not to be less than the Class III price); and

(f) Add the value at the Class I price, adjusted for the location of the nearest nonpool plant(s) from which an equivalent volume was received (but the adjusted price not to be less than the Class III price) of the skim milk and butterfat subtracted from Class I pursuant to § 1124.46(a)(9) and the corresponding step of § 1124.46(b), excluding such skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk and butterfat disposed of to such plant by handlers under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order.

18. Section 1124.80 is revised as follows:

§ 1124.80 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments into such fund pursuant to §§ 1124.62 and 1124.81 and out of which he shall make all payments from such fund pursuant to § 1124.82: *Provided,* That the market administrator shall offset the payment due to a person from such fund against payments due from such person.

19. Section 1124.87(b) is revised as follows:

§ 1124.87 Expense of administration.

* * * * *

(b) Other source milk allocated to Class I milk pursuant to § 1124.46(a)(5) and (9) and the corresponding steps of § 1124.46(b); and

* * * * *

[FR Doc.71-16647 Filed 11-15-71;8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 295]

CHILD PROTECTION PACKAGING STANDARDS

Extension of Time for Filing Comments

Four notices proposing child protection packaging standards have been published in the FEDERAL REGISTER: Aspirin preparations (September 1, 1971; 36 F.R. 17512), certain liquid furniture polishes (September 8, 1971; 36 F.R. 18012), certain liquid preparations containing methyl salicylate (September 29, 1971; 36 F.R. 19124), and substances subject to

the Comprehensive Drug Abuse Prevention and Control Act of 1970 (October 15, 1971; 36 F.R. 20046).

The Commissioner of Food and Drugs has been requested to extend the time for filing comments regarding these proposals on the grounds that comment cannot be filed on the individual product proposals until the testing procedure proposed for use in determining compliance with the proposed child protection packaging standards is finalized. Accordingly, good reason therefor appearing, the time for filing comments is extended to the date that will be 60 days after an order is published in the FEDERAL REGISTER adopting § 295.10 *Testing procedure for special packaging* which was proposed July 20, 1971 (36 F.R. 13335).

This action is taken pursuant to provisions of the Poison Prevention Packaging Act of 1970 (secs. 2(4), 3, 5, 84 Stat. 1670–72; 15 U.S.C. 1471–74) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 5, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16635 Filed 11-15-71;8:46 am]

Public Health Service

[42 CFR Part 90]

LEAD-BASED PAINT POISONING PREVENTION IN FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Notice of Proposed Rule Making

Section 401 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831) provides that the Secretary of Health, Education, and Welfare shall take appropriate action to prohibit the use of lead-based paint in residential structures constructed or rehabilitated by the Federal Government, or with Federal assistance in any form.

Notice is hereby given of a proposal to implement this provision by adding to Title 42, Code of Federal Regulations, a new Subchapter H, entitled "Lead-Based Paint Poisoning Prevention" and a new Part 90 as set forth below.

Inquiries may be addressed and data, views, and arguments may be submitted in writing, preferably in triplicate, to the Bureau of Community Environmental Management, Room 15–87, 5600 Fishers Lane, Rockville, Maryland 20852. All material received within 30 days following publication of this notice in the FEDERAL REGISTER will be considered. All comments in response to the proposed regulations will be available for public inspection during regular business hours at the foregoing address.

It is therefore proposed to amend Chapter I of Title 42 in the manner set forth below.

Chapter I of Title 42 is amended by adding a new Subchapter H and Part 90, to read as follows:

SUBCHAPTER H—LEAD-BASED PAINT POISONING PREVENTION

PART 90—LEAD-BASED PAINT POISONING PREVENTION IN FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Sec.
90.1 Scope.
90.2 Definitions.
90.3 Federal construction; prohibition against use of lead-based paint.
90.4 Federally assisted construction; prohibition against use of lead-based paint.
90.5 Reports to the Secretary.

AUTHORITY: The provisions of this Part 90 issued under sec. 401, 84 Stat. 2079; 42 U.S.C. 4831.

§ 90.1 Scope.

The regulations of this part are promulgated to implement the prohibition in section 401 of the Lead-Based Paint Poisoning and Prevention Act against the use of lead-based paint in residential structures constructed or rehabilitated by the Federal Government or with Federal assistance in any form and are applicable to all Federal agencies.

§ 90.2 Definitions.

Any term not defined herein shall have the meaning given it by the Act.

(a) "Act" means the Lead-Based Paint Poisoning Prevention Act (Public Law 91–695, 84 Stat. 2078).

(b) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved may be delegated.

(c) "Federal agency" means the United States and all executive departments, independent establishments, administrative agencies and instrumentalities of the United States, including corporations in which all or substantially all of the stock is beneficially owned by by the United States or by any of the foregoing departments, establishments, agencies and instrumentalities.

(d) "Agency Head" means the principal official of a Federal agency and includes those persons duly authorized to act in his behalf.

(e) "Lead-based paint" means any paint containing more than 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of liquid paints or in the dried film of paint already applied.

(f) "Residential structure" means the interior surfaces and those exterior surfaces readily accessible to children under 7 years of age of any house, apartment, or structure intended for human habitation including any institutional structure where persons reside such as an orphanage, boarding school dormitory, or extended-care facility.

§ 90.3 Federal construction; prohibition against use of lead-based paint.

No Federal agency shall, in any residential structure constructed or rehabilitated by such agency, use or permit the use of lead-based paint.

§ 90.4 Federally assisted construction; prohibition against use of lead-based paint.

(a) Each Agency Head shall issue regulations and take such other steps as in his judgment are necessary to prohibit the use of lead-based paint in any residential structures constructed or rehabilitated by such agency under any federally assisted program.

(b) Such regulations shall require the inclusion of appropriate provisions in contracts and subcontracts pursuant to which such federally assisted construction or rehabilitation is performed, prohibiting the use of lead-based paint, and shall include provisions for enforcement of that prohibition.

§ 90.5 Reports to the Secretary.

To assist the Secretary in fulfilling his responsibilities under the Act, each Federal agency shall furnish to the Secretary, not later than 3 months after the effective date of these regulations, a report of the steps it has taken to comply with this Part 90.

Dated: October 7, 1971.

VERNON E. WILSON,
Administrator, Health Services and Mental Health Administration.

Approved: November 1, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.71-16644 Filed 11-15-71;8:47 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 71-SO-142]

PIPER PA-28-140 SERIES AIRPLANES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation regulations by adding an airworthiness directive applicable to Piper PA-28-140 series airplanes.

There have been incidents of deterioration and rupture of engine oil radiator hose assemblies on the Piper PA-28-140 airplanes that have resulted in a loss of engine oil and subsequent engine stoppage.

Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require replacement of both hose assemblies at 1,000 hours' time in service on certain Piper Model PA-28-140 series airplanes.

Interested persons are invited to participate in the making of the proposed

rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, Attention: Rules Docket, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of the Federal Aviation Regulations by adding the following new airworthiness directive:

PIPER. Applies to all PA-28-140 airplanes certified in all categories which have flexible engine-to-oil radiator hoses installed.

Unless already accomplished, for aircraft with flexible oil hose installations having 900 hours or more time in service, compliance with his airworthiness directive is required within the next 100 hours' time in service after the effective date of this airworthiness directive and thereafter at intervals not to exceed 1,000 hours' time in service from the last replacement except as otherwise specified.

NOTE: Early production aircraft equipped with rigid oil lines between oil radiator and engine, and airplanes with 50-inch-length hose assemblies, Piper Part No. 63901-69, installed at the time of manufacture are all exempt from this airworthiness directive.

To prevent possible rupture of oil hose assemblies 63794-16, 63901-16, or 61413-02, comply with paragraphs (a) and (c) or (b) and (c).

(a) Remove left and right radiator hose assemblies and install new left and right radiator hose assemblies, Piper Part No. 63794-16 or equivalent hose assemblies approved by Chief, Engineering and Manufacturing Branch, FAA, Southern Region, and thereafter at intervals not to exceed 1,000 hours' time in service.

(b) Hose assembly, Piper Part No. 63901-72 (46" length hose in lieu of 40" length) hose may be used and if installed in accordance with paragraph (c) no repetitive replacement is required.

(c) When reinstalling hose assemblies, Part No. 63794-16 or 63901-16, adjust the oil hoses to insure a clearance of 1¾" to 2" between oil hoses and the front exhaust stacks. Both oil hoses must be tied firmly together where they pass below the exhaust stacks. As the hose is routed to the rear of the engine, it must pass underneath and behind the electrical ground cable and in front of the lower of the two engine mount struts. The hose must be tied to the engine mount strut at this location so that a clearance of at least 2 inches is maintained between the oil hose and exhaust stack. Hose installation and routing of hose assembly Part No. 63901-72 will be the same as the above except that a minimum clearance of 3.0" between hose assembly and exhaust stacks must be maintained. Special care should be exercised in routing the 46" hose assembly (P/N 63901-72) to prevent chafing.

NOTE: If hose assembly hours cannot be determined, airplane hours will be used.

Issued in East Point, Ga., on November 5, 1971

W. R. RUCKER,
Acting Director, Southern Region.

[FR Doc.71-16626 Filed 11-15-71;8:45 am]

Office of Pipeline Safety

[49 CFR Part 192]

[Notice 71-6; Docket No. OPS-13]

MINIMUM FEDERAL SAFETY STANDARDS FOR GAS PIPELINES

Modification of Required Capacity of Pressure Relieving and Limiting Stations

The Department of Transportation is considering an amendment to § 192.201 (a) that would change the restriction on accidental pressure buildup in pipelines other than a low pressure distribution system which have a maximum allowable operating pressure (MAOP) of less than 60 p.s.i.g.

Under § 192.201(a)(1), pressure relieving and pressure limiting stations which are not in a low pressure distribution system must have enough capacity and be set to operate to prevent the pressure from exceeding the MAOP plus 10 percent or the pressure that produces a hoop stress of 75 percent of SMYS, whichever is lower.

It has come to the attention of the Department that when the MAOP is below 60 p.s.i.g., present day regulating equipment cannot accurately limit accidental overpressure to 10 percent above the MAOP. In this pressure range, a 10 percent difference in pressures between a regulator and a pressure relieving or limiting device is difficult and impractical to attain, and could result in an erratic and consequently hazardous operation. To rectify this condition, § 192.201(a)(1) would be revised to permit the pressure in pipelines with an MAOP of less than 60 p.s.i.g. but at least 12 p.s.i.g. to build up to the MAOP plus 6 p.s.i.g. The pressure in pipelines with an MAOP of less than 12 p.s.i.g. would be allowed to build up to the MAOP plus 50 percent. Since pressures below 60 p.s.i.g. will not produce a hoop stress of 75 percent of SMYS, this alternative pressure limitation was not included in the proposed amendment.

An overpressure limitation of 6 p.s.i.g. is considered a practical increment sufficient for proper functioning of regulating equipment used in pipelines with an MAOP between 12 and 60 p.s.i.g. At the same time, the 6 p.s.i.g. limitation is higher than necessary for adequate pressure control when the MAOP is below 12 p.s.i.g. Present day equipment is capable of functioning with precision in this low pressure range at increments less than 6 p.s.i.g. but more than 10 percent of MAOP.

The proposed revision of limits for accidental overpressure is an increase over the present 10 percent of MAOP limitation. However, the Department does not believe that safety of the system would be reduced since in recent years pipeline components have been designed and rated for at least 60 p.s.i.g., even though the MAOP of the system may have a much lower setting under § 192.619.

Interested persons are invited to participate in making the proposed amendment by submitting written information, views, or arguments. In particular, comments are requested on (1) the feasibility of adopting the 50 percent of MAOP limitation for pressures below 12 p.s.i.g., and (2) how the proposed amendment would affect the safe operation of pipelines. Submission received before December 15, 1971, will be considered with a view towards amending the proposal before final action is taken. Communications should identify the docket and notice numbers and be sent in duplicate to the Office of Pipeline Safety, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. All comments received will be available for examination at the Office of Pipeline Safety both before and after the closing date for comments.

This notice is issued under the authority of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. sec. 1671 et seq.), § 1.58(d) of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.58(d)), and the redelegation of authority to the Director, Office of Pipeline Safety, dated November 6, 1968 (33 F.R. 16468).

In consideration of the foregoing it is proposed to amend § 192.201(a) of Title 49 of the Code of Federal Regulations to read as follows:

§ 192.201 Required capacity of pressure relieving and limiting stations.

(a) Each pressure relief station or pressure limiting station or group of those stations installed to protect a pipeline must have enough capacity, and must be set to operate, to insure the following:

(1) In a low pressure distribution system, the pressure must not cause the unsafe operation of any connected and properly adjusted gas utilization equipment.

(2) In pipelines other than a low pressure distribution system—

(i) If the maximum allowable operating pressure is at least 60 p.s.i.g., the pressure must not exceed the maximum allowable operating pressure plus 10 percent or the pressure that produces a hoop stress of 75 percent of SMYS, whichever is lower;

(ii) If the maximum allowable operating pressure is at least 12 p.s.i.g., but less than 60 p.s.i.g., the pressure must not exceed the maximum allowable operating pressure plus 6 p.s.i.g.; or

(iii) If the maximum allowable operating pressure is less than 12 p.s.i.g., the pressure must not exceed the maximum

allowable operating pressure plus 50 percent.

* * * * *

Issued in Washington, D.C., on November 10, 1971.

JOSEPH C. CALDWELL,
Acting Director,
Office of Pipeline Safety.

[FR Doc.71-16645 Filed 11-15-71;8:47 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 74]

[Docket No. 19320]

COMMUNITY ANTENNA TELEVISION (CATV) SYSTEMS

Nationally Syndicated Programs; Extension of Time for Filing Comments

Order. Regarding amendment of § 74.1103(g)(2) of the Commission's rules and regulations, Docket No. 19320.

1. In the notice of proposed rule making in this proceeding (36 F.R. 19442), the Commission called for comments by November 8, 1971, and reply comments by November 18, 1971. By motion filed November 8, 1971, the Association of Maximum Service Telecasters, Inc., requested a 1-week extension of time so that comments may be filed by November 15, 1971, and reply comments by November 23, 1971. In support of its motion, MST cites "the unexpected press of other matters, including other CATV matters."

2. It does not appear that any other party or the public interest in general would be prejudiced if the requested extension is granted.

Accordingly, it is ordered, Pursuant to § 0.289(c)(4) of the Commission's rules and regulations, that the time for filing comments on the notice of proposed rule making in Docket No. 19320 is extended as follows: Comments are due on or before November 15, 1971, and reply comments due on or before November 23, 1971.

Adopted: November 8, 1971.

Released: November 9, 1971.

[SEAL] SOL SCHILDHAUSE,
Chief, Cable Television Bureau.

[FR Doc.71-16675 Filed 11-15-71;8:50 am]

Notices

DEPARTMENT OF THE TREASURY

Secret Service

[Delegation Order No. 1; (Rev. 6)]

DEPUTY DIRECTOR ET AL.

Delegation of Authority

By virtue of the authority vested in me by Treasury Department Order No. 129 (Revision No. 2) dated April 22, 1955, it is hereby ordered as follows:

1. The following officers of the U.S. Secret Service, in the order of succession enumerated, shall act as Director, U.S. Secret Service, during the absence or disability of the Director, or when there is a vacancy in such office:

1. Deputy Director.
2. Assistant Director—Protective Intelligence.
3. Assistant Director—Investigations.
4. Assistant Director—Protective Forces.
5. Assistant Director—Inspection.
6. Assistant Director—Administration.
7. Deputy Assistant Director—Inspection.
8. Inspectors, in order of their seniority as Inspectors.
9. Special Agent in Charge—New York.
10. Special Agent in Charge—Chicago.
11. Special Agent in Charge—San Francisco.

2. In the event of an enemy attack on the continental United States, all Special Agents in Charge of Secret Service field offices and protective details are authorized in their respective districts to perform any function of the Director, U.S. Secret Service, or the Secretary of the Treasury, whether or not otherwise delegated, which is essential to the carrying out of responsibilities otherwise assigned to them. The respective officers will be notified when they are to cease exercising the authority delegated in this paragraph.

[SEAL] JAMES J. ROWLEY,
Director, U.S. Secret Service.

[FR Doc.71-16679 Filed 11-15-71;8:50 am]

DEPARTMENT OF THE INTERIOR

National Park Service

BIG BEND NATIONAL PARK, TEX.

Notice of Public Hearing Regarding Wilderness Proposal

Notice is hereby given in accordance with the provisions of the Act of September 3, 1964 (78 Stat. 890, 892; 16 U.S.C. 1131, 1132), and in accordance with departmental procedures as identified in 43 CFR 19.5 that public hearings will be held beginning at 1 p.m. on January 15, 1972, in the Community Room, City Hall Building, 309 West Avenue D, Alpine, TX, for the purpose of receiving comments and suggestions as to the appropriateness of a proposal for the establishment of wilderness comprising about 523,800 acres within the Big Bend National Park. The park is located in Brewster County, in southwestern Texas.

A packet containing a draft master plan, preliminary wilderness study report, and draft environmental impact statements, and providing additional information about the proposal may be obtained from the Superintendent, Big Bend National Park, Big Bend National Park, Tex. 79834, or from the Director, Southwest Region, National Park Service, Old Santa Fe Trail, Post Office Box 728, Santa Fe, NM 87501.

A description of the preliminary boundaries and a map of the areas proposed for establishment as wilderness are available for review in the above offices and in Room 1013 of the Department of the Interior Building at 18th and C Streets NW., Washington, DC.

Interested individuals, representatives of organizations, and public officials are invited to express their views in person at the aforementioned public hearing, provided they notify the Hearing Officer, in care of the Superintendent, Big Bend National Park, Big Bend National Park, Tex. 79834, by January 12, of their desire to appear. Those not wishing to appear in person may submit written statements on the wilderness proposal to the Hearing Officer, at that address for inclusion in the official record, which will be held open for 30 days following conclusion of the hearing.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An oral statement may, however, be supplemented by a more complete written statement which may be submitted to the Hearing Officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the transcribed hearing record. However, all materials so presented at the hearing shall be subject to determinations that they are appropriate for inclusion in the transcribed hearing record. To the extent that time is available after presentation of oral statements by those who have given the required advance notice, the Hearing Officer will give others present an opportunity to be heard.

After an explanation of the proposal by a representative of the National Park Service, the Hearing Officer, insofar as possible, will adhere to the following order in calling for the presentation of oral statements:

(1) Governor of the State or his representative.
(2) Members of Congress.
(3) Members of the State Legislature.
(4) Official representative of the county in which the proposed wilderness is located.
(5) Officials of other Federal agencies or public bodies.
(6) Organizations in alphabetical order.
(7) Individuals in alphabetical order.
(8) Others not giving advance notice, to the extent there is remaining time.

Dated: November 5, 1971.

IRA WHITLOCK,
Acting Deputy Director,
National Park Service.

[FR Doc.71-16540 Filed 11-15-71;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

RETAILERS' INVENTORIES, SALES, PURCHASES AND NUMBER OF ESTABLISHMENTS

Notice of Consideration To Continue Survey

Notice is hereby given that the Bureau of the Census is considering a proposal to repeat in 1972 the Annual Retail Trade Survey which has been conducted each year under title 13, United States Code, sections 181, 224, and 225, to collect data covering year-end inventories, purchases, annual sales, and number of retail stores operated as of the end of the year. This survey covering 1971 is the only continuing source available on a comparable classification and timely basis for use as the benchmark for monthly inventory and purchases estimates. It also assists in establishing a benchmark for the geographic area distribution of sales.

Information and recommendations received by the Bureau of the Census indicate that the data will have significant application to the needs of the public, the distributive trades, and governmental agencies, and are not publicly available from nongovernment or other governmental sources.

Such a survey, if conducted, shall begin not earlier than 30 days after the publication of this notice in the FEDERAL REGISTER.

Reports will be required only from a selected sample of retail establishments in the United States. The sample will provide, with measurable reliability, statistics on the subjects specified above. Reports will be requested from sample stores based on their sales size, selection in Census list sample mail panel, and location in Census sample areas. A group of the largest firms, in terms of number of retail stores, will be requested to report their sales and number of stores by county; but those firms which are participating monthly in the Bureau's geographic area survey will be asked to report at the national level only.

Copies of the proposed forms and a description of the collection methods are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of the proposed survey, submitted in writing to the Director of the Bureau of the Census within 30 days after the date of this publication, will receive consideration.

Dated: November 10, 1971.

GEORGE H. BROWN,
Director,
Bureau of the Census.

[FR Doc.71-16663 Filed 11-15-71;8:49 am]

Bureau of International Commerce

[File 23(70)16]

NORMAN WEDGE LTD., ET AL.

Order Denying Export Privileges for an Indefinite Period

In the matter of Norman Wedge, Ltd., 27 Queen Anne Street, London, W.1, England; Norman Wedge, 98 Deans Road, Wolverhampton, Staffordshire, England; Keith Hutt, 2 Chase End, Epsom, Surrey, England; respondents, File 23(70) 16.

The Director, Compliance Division, Office of Export Control, Bureau of International Commerce, U.S. Department of Commerce, has applied for an order denying to the above respondents all export privileges for an indefinite period because the said respondents, without good cause being shown, failed to furnish answers to interrogatories and failed to furnish certain records and other writings specifically requested. This application was made pursuant to § 388.15 of the Export Control Regulations (Title 15, Chapter III, Subchapter B, Code of Federal Regulations).

In accordance with the usual practice, the application for an indefinite denial order was referred to the Compliance Commissioner, Bureau of International Commerce, who after consideration of the evidence has recommended that the application be granted. The report of the Compliance Commissioner and the evidence in support of the application have been considered.

The evidence presented shows that the firm Norman Wedge, Ltd. is engaged as a dealer in automotive and tractor spare parts; the firm was previously located in Tipton, Staffordshire, England, and is now located at 27 Queen Anne Street, London, England; the respondent Norman Wedge is a principal of said firm; the respondent Keith Hutt acted as a representative of Norman Wedge, Ltd. in connection with the 1970 transactions hereinafter mentioned. The evidence also shows that in May 1969 the Wedge firm received tractor spare parts valued at $3,300 from a U.S. supplier and in July 1970 the said firm received two shipments of tractor spare parts valued at $26,000 exported from the United States by a different supplier. The evidence further shows that respondents knew that reexportation of said spare parts to certain destinations, including Cuba, was contrary to the provisions of the U.S. Export Control Regulations.

The Compliance Division is conducting an investigation to ascertain whether or not the commodities in question were reexported to an unauthorized destination.

It is impracticable to subpoena the respondents, and relevant and material interrogatories were served on them pursuant to § 388.15 of the Export Control Regulations. The respondents, also pursuant to said section, were requested to furnish certain specific documents relating to the aforesaid matters. Said respondents have failed to respond to said interrogatories or to furnish the documents requested as required by said section, and they have not shown good cause for such failure. I find that an order denying export privileges to said respondents for an indefinite period is reasonably necessary to protect the public interest and to achieve effective enforcement of the Export Administration Act of 1969.

Accordingly, it is hereby ordered:

I. All outstanding validated export licenses in which respondents appear or participate in any manner or capacity are hereby revoked and shall be returned forthwith to the Bureau of International Commerce for cancellation.

II. The respondents, their successors, assigns, representatives, agents and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States, in whole or in part, or to be exported, or which are otherwise subject to the Export Control Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control document; (d) in the carrying on of negotiations with respect to or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data in whole or in part exported or to be exported from the United States; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any person, firm, corporation, or business organization with which they now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. This order shall remain in effect until the respondents provide responsive answers, written information, and documents in response to the interrogatories heretofore served upon them or give adequate reasons for failure to do so, except insofar as this order may be amended or modified hereafter in accordance with the Export Control Regulations.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondents, or whereby the respondents may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any respondent, or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. A copy of this order shall be served on respondents.

VII. In accordance with the provisions of § 388.15 of the Export Control Regulations, the respondents may move at any time to vacate or modify this Indefinite Denial Order by filing with the Compliance Commissioner, Bureau of International Commerce, U.S. Department of Commerce, Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which, if requested, shall be held before the Compliance Commissioner, Washington, D.C., at the earliest convenient date.

This order shall become effective on November 16, 1971.

Dated: November 10, 1971.

RAUER H. MEYER,
Director,
Office of Export Control.

[FR Doc.71-16652 Filed 11-15-71;8:48 am]

[File No. 23(71)-15]

SEUROLEC S.A. AND ALBERT ROLLAND

Order Extending Temporary Denial of Export Privileges

In the matter of Seurolec S.A. (Societe Europeene Electronique S.A.) and Albert Rolland, 39-41 rue de l'Est, 92 Boulogne-sur-Seine, France, and 41 East 42d Street, New York, NY 10017, respondents, File No. 23(71)-15.

An order temporarily denying export privileges for a period of 90 days was issued against the above respondents on August 19, 1971 (36 F.R. 16700). Said order was issued in connection with an investigation instituted by the Compliance Division (formerly designated Investigations Division) Office of Export

Control, Bureau of International Commerce. On the evidence presented there was reasonable basis to believe that respondents had made false statements to effect an exportation of strategic commodities from the United States and that respondents were participating in the exportation of strategic commodities from the United States and the reexportation of such commodities to unauthorized destinations in violation of the U.S. Export Control Regulations.

The Director of the Compliance Division has applied under § 388.11 of the Export Control Regulations for an extension of the temporary denial order until completion of administrative compliance proceedings. It is expected that a charging letter against the respondents which will contain allegations of violations of the Export Administration Act of 1969 will be issued in the near future. The charging letter will be transmitted for service on respondents and after such service they will have 30 days in which to answer the allegations thereof.

The application for extension of the temporary denial order has been considered by the Compliance Commissioner. He has found that such extension is reasonably necessary for the protection of the public interest. I confirm this finding. The Compliance Commissioner has recommended that the petition for extension be granted and that the temporary denial order be extended until completion of administrative compliance proceedings. I accept his recommendation.

Accordingly, it is hereby ordered:

I. The prohibitions and restrictions of the temporary denial order issued in this matter on August 19, 1971 (36 F.R. 16700) are hereby continued in full force and effect.

II. The respondents, their assigns, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States, in whole or in part, or to be exported, or which are otherwise subject to the Export Control Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control document; (d) in the carrying on of negotiations with respect to or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data in whole or in part exported or to be exported from the United States; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any person, firm, corporation, or business organization with which they now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. This order, unless hereafter amended, modified, or vacated in accordance with the provisions of the U.S. Export Control Regulations, shall remain in effect until the completion of administrative compliance proceedings which will result from the charging letter to be issued against respondents.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondents, or whereby the respondents may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transhipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any respondent, or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transhipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. A copy of this order shall be served upon the respondents.

VII. In accordance with the provisions of § 388.11(c) of the Export Control Regulations, the respondents may move at any time to vacate or modify this temporary denial order by filing an appropriate motion therefor, supported by evidence, with the Compliance Commissioner and may request an oral hearing thereon which, if requested, shall be held before the Compliance Commissioner in Washington, D.C., at the earliest convenient date.

Dated: November 10, 1971.

RAUER H. MEYER,
Director,
Office of Export Control.

[FR Doc.71-16653 Filed 11-15-71;8:48 am]

National Oceanic and Atmospheric Administration

POINT CLEAR REEF, MOBILE BAY, ALA.

Determination of Commercial Fishery Failure Due to Resource Disaster

Whereas, many individuals and firms in Alabama are engaged in harvesting, processing, and marketing oysters to meet consumer demand; and

Whereas, Point Clear reef in Mobile Bay has been an important contributing oyster resource having an area of 195 acres containing approximately 3,500 barrels of oysters worth $47,800 dockside, $95,500 retail or $200,000 to the local economy involving 129 oyster fishermen, eight oyster processors, and 53 retail outlets; and

Whereas, the entire 195 acre Point Clear reef is now unproductive of oysters as a result of depletion of dissolved oxygen in the aquatic environment; and

Whereas, this oxygen depletion and resutling damage to the Point Clear oyster reef resulted from a natural cause; and

Whereas, it is known that the damaged resource can be effectively and economically restored;

Now, therefore, as authorized representative of the Secretary of Commerce, I hereby determine that the foregoing circumstances constitute a commercial fishery failure due to a resource disaster within the meaning of subsection 4(b) of the Commercial Fisheries Research and Development Act as amended. Pursuant to this determination, I hereby authorize the use of funds appropriated under the aforementioned Act to restore the damaged oyster resouce in Mobile Bay, Ala.

HOWARD W. POLLOCK,
Acting Administrator, National Oceanic and Atmospheric Administration.

OCTOBER 29, 1971.

[FR Doc. 71-16648 Filed 11-15-71;8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

AMERICAN CYANAMID CO.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition (FAP 2B2748) has been filed by American Cyanamid Co., Wayne, N.J. 07470, proposing that § 121.2571 *Components of paper and paperboard in contact with*

dry food (21 CFR 121.2571) be amended to provide for the safe use of acrylonitrile-styrene-2-vinylimidazoline copolymer, acetate salt, as a surface size for paper and paperboard intended for contact with dry food.

Dated: November 5, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-16637 Filed 11-15-71;8:46 am]

[DESI 9472; Docket No. FDC-D-398; NDA No. 9-472]

CERTAIN PREPARATIONS CONTAINING ETHCHLORVYNOL; METHYPRYLON; ETHINAMATE; OR GLUTETHIMIDE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs for oral use:

1. Arvynol Capsules containing ethchlorvynol; Chas. Pfizer & Co., Inc., (International), 235 East 42d Street, New York, N.Y. 10017 (NDA 9-472).

2. Placidyl Capsules containing ethchlorvynol; Chas. Pfizer & Co., Inc. 14th and Sheridan, North Chicago, Illinois 60064 (NDA 10-021).

3. Noludar Tablets and Capsules containing methyprylon; Roche Laboratories, Division of Hoffmann-La Roche Inc., 340 Kingsland Avenue, Nutley, N.J. 07110 (NDA 9-660).

4. Valmid Tablets containing ethinamate; Eli Lilly & Co., 307 East McCarthy, Indianapolis, Ind. 46206 (NDA 9-750).

5. Doriden Capsules and Tablets containing glutethimide; Ciba Pharmaceutical Co., Division of Ciba Corp., 566 Morris Avenue, Summit, N.J. 07901 (NDA 9-519).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drug without approval.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that these drugs:

1. Are effective for use as hypnotics.

2. Are possibly effective for their labeled indications relating to use as sedatives, tranquilizers, or anticonvulsants, and

3. Lack substantial evidence of effectiveness as labeled for use as muscle relaxants.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Such preparations are in tablet or capsule form suitable for oral administration.

2. *Labeling conditions.* a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the act and regulations. The labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970.

The "Indications" section is as follows:

INDICATIONS

Indicated for use as a hypnotic.
(The possibly effective indications may also be included for 6 months.)

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study, published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling, an abbreviated supplement for updating information, and adequate data to show the biologic availability of the drug in the formulation which is marketed as described in paragraph (a)(1)(i), (ii), and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application, to include adequate data to assure the biologic availability of the drug in the formulation which is or is intended to be marketed as described in paragraph (a)(3)(ii) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as possibly effective (not included in the "Indications" section above), continued use as described in paragraphs (d), (e), and (f) of that notice.

C. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new-drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph A.3 of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Any related drug for human use, not the subject of an approved new drug application, offered for the indications for which substantial evidence of effectiveness is lacking may be affected by this action.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

3. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing, together with a well-organized and full-factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 9472, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original abbreviated new-drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

Request for Hearing (identify with docket number): Hearing Clerk, Office of General Counsel (GC-1), Room 6-88, Parklawn Building.

Requests for the Academy's report: Drug Efficacy Study Information Control (BD-67), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

Received requests for a hearing may be seen in the office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355)

and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: October 19, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16636 Filed 11-15-71;8:46 am]

HAZLETON LABORATORIES

Notice of Filing of Petition for Food Additive

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 2A2739) has been filed by Hazleton Laboratories, 9200 Leesburg Turnpike, Vienna, Va. 22180, proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of calcium sucrose phosphates to impart noncariogenic properties to chewing gums containing sugar.

Dated: November 5, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-16639 Filed 11-15-71;8:46 am]

HAZLETON LABORATORIES, INC.

Notice of Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Hazleton Laboratories, Inc., A subsidiary of TRW, Inc., Post Office Box 30, Falls Church, Va. 22046, has withdrawn its petition (FAP 1A2575), notice of which was published in the FEDERAL REGISTER of August 19, 1970 (35 F.R. 13222), proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of propylene carbonate as a component of a defrost fluid in food freezing equipment.

Dated: November 5, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-16638 Filed 11-15-71;8:46 am]

[Docket No. FDC-D-366; NADA No. 8-321V]

E. R. SQUIBB & SONS, INC.

Narton; Notice of Withdrawal of Approval of New Animal Drug Application

A notice of opportunity for a hearing proposing to withdraw approval of NADA (new animal drug application) No. 8-321V for Narton, was published in the FEDERAL REGISTER of September 3, 1971 (36 F.R. 17670).

E. R. Squibb & Sons, Inc., Agricultural Research Center, Three Bridges, N.J. 08887, holder of said NADA did not file a written appearance of election regarding whether or not they wished to avail themselves of the opportunity for a hearing within the 30-day period provided for such filings in said notice. This is construed as an election by said firm not to avail themselves of the opportunity for a hearing.

Based on the grounds set forth in the notice and the response to said notice, the Commissioner of Food and Drugs concludes that approval of said NADA should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120), approval of NADA No. 8-321V, including all amendments and supplements thereto, is hereby withdrawn effective on the date of publication of this document.

Dated: November 4, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16640 Filed 11-15-71;8:46 am]

[Docket No. FDC-D-367; NADA No. 10-630V]

WYETH LABORATORIES, INC.

Equanil (Meprobamate Tablets) Veterinary; Notice of Withdrawal of Approval of New Animal Drug Application

A notice of opportunity for a hearing proposing to withdraw approval of NADA (new animal drug application) No. 10-630V for the drug Equanil was published in the FEDERAL REGISTER of September 3, 1971 (36 F.R. 17671).

Wyeth Laboratories, Inc., Post Office Box 8299, Philadelphia, Pa. 19101, holder of said NADA, did not file a written appearance of election regarding whether or not they wished to avail themselves of the opportunity for a hearing within the 30-day period provided for such filing in said notice. This is construed as an election by said firm not to avail themselves of the opportunity for a hearing.

Based on the grounds set forth in said notice and the response to said notice, the Commissioner of Food and Drugs concludes that approval of said NADA should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), approval of new animal drug application No. 10-630V, including all amendments and supplements thereto, is hereby withdrawn effective on the date of publication of this document.

Dated: November 4, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16641 Filed 11-15-71;8:46 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23976; Order 71-11-39]

AERLINTE EIREANN TEORANTA

Statement of Tentative Findings and Conclusions and Order To Show Cause

On August 18, 1971, the Government of the United States notified the Government of Ireland by diplomatic note,[1] in accordance with Article 9 of the United States-Ireland Air Transport Services Agreement of February 3, 1945, as amended,[2] that 1 year from the date of the note, the rights granted to the Government of Ireland for its designated airlines to serve New York, as described in amended paragraph B of the Annex, would be terminated.

The U.S. Government announced that this action was taken with great reluctance, but was a result of the failure to obtain an equitable balance in the Agreement after 25 years of discussion and negotiations, the latest of which occurred during August 1971, in Washington without agreement.

Under the 1945 Agreement, as amended, Ireland was granted landing rights at New York, Boston, and Chicago and the United States received rights at Shannon only. These U.S. points have proven to be more valuable for the Irish airline than Shannon alone for U.S. airlines.

The foreign air carrier permit for the designated Irish carrier, Aerlinte Eireann Teoranta (Aerlinte), was granted after notice and public hearing in which the Board found that the applicant was fit, willing, and able to perform such transportation and that such transportation was in the public interest. At the time the Board's public interest finding for the services authorized rested largely on the provisions of the Air Transport Services Agreement.[3]

The Board determined that the public convenience and necessity required U.S. air carrier services at Dublin as early as 1946.[4] However, the public has been denied the benefits of these services through the refusal of the Government of Ireland to grant Dublin landing rights to U.S. air carriers.

The notice of the U.S. Government to the Government of Ireland of a change in the terms of the Air Transport Services Agreement in force between them, the inequitable imbalance of opportunities for the carriers of both nations, and the denial of the public benefits that would accrue were U.S. carriers enabled by the Government of Ireland to operate services at Dublin causes the Board tentatively to find and conclude that the

[1] No. 181, Department of State, Aug. 18, 1971.

[2] Article 9: "This agreement or any of the rights for air transport services granted thereunder may * * * be terminated by either contracting party upon giving 1 year's notice to the other contracting party." 61 Stat. 319.

[3] Order E-1133, approved Jan. 20, 1948, Docket 3092.

[4] Order 4996, effective July 19, 1946, authorized Pan American to serve Dublin, but service was never inaugurated.

public interest requires the amendment of the permit held by Aerlinte so as to delete New York, effective August 18, 1972.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 102(d) and 402(f) thereof,

It is ordered, That:

1. Aerlinte and any other interested persons be and they are hereby directed to show cause why the Board should not issue an order which would make final the tentative findings and conclusions herein and which would, subject to the approval of the President, amend the foreign air carrier permit held by said carrier so as to delete its authority to serve New York as of August 18, 1972.

2. Interested persons will be given 20 days from the service date of this order to show cause why the tentative findings and conclusions set forth herein should not be made final.[5] We expect such persons to support such objections with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If any evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained.

3. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein.

4. If timely and properly supported objections are filed, further consideration will be accorded the matters and issues raised by any memoranda in opposition before further action is taken by the Board; *Provided,* That the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein if it determines that there are no factual issues presented which warrant the holding of an evidentiary hearing.

5. This order shall be served on Aerlinte.

This order shall be published in the FEDERAL REGISTER.

Adopted: November 10, 1971.

By the Civil Aeronautics Board.[6]

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-16664 Filed 11-15-71;8:49 am]

[5] Since provision is made for response to this order, petitions for reconsideration of this order will not be entertained.

[6] Browne, Chairman, Gillilland, Vice Chairman, Minetti, Murphy and Timm, Members, concurred in the above statement and order.

FEDERAL COMMUNICATIONS COMMISSION

[FCC 71-1134]

ITT WORLD COMMUNICATIONS, INC., ET AL.

Memorandum Opinion and Order Designating Matter for Hearing

In the matter of ITT World Communications Inc., Complainant v. The Western Union Telegraph Co., Defendant; Tropical Radio Telegraph Co., Complainant v. The Western Union Telegraph Co., Defendant; RCA Global Communications, Inc., Complainant v. The Western Union Telegraph Co., Defendant; and Western Union International, Inc., Complainant, v. The Western Union Telegraph Co., Defendant; Docket No. 19344. Complaints, pursuant to section 208 of the Communications Act of 1934, demanding compensation for expenses incurred in the handling of messages on behalf of The Western Union Telegraph Co.

1. The Commission has before it:

(a) A formal complaint filed by ITT World Communications Inc. (ITT) on April 30, 1971 against the Western Union Telegraph Co. (Western Union) in which ITT claims compensation in the amount of $240,566 plus interest, for performing for Western Union certain services incident to overseas message handling during 1968–1969;

(b) A formal complaint filed by Tropical Radio Telegraph Co. (Tropical) on July 6, 1971 against Western Union claiming compensation in the amount of $29,806 plus interest, generally similar to the ITT claim;

(c) A formal complaint filed by RCA Global Communications, Inc. (RCA) on July 12, 1971 against Western Union claiming compensation in the amount of $161,016 plus interest, also generally similar to the ITT claim;

(d) A formal complaint filed by Western Union International, Inc. (WUI) on August 2, 1971 against Western Union claiming compensation in the amount of $175,720 plus interest, also generally similar to the ITT claim; and

(e) Various notices and pleadings relating to these four complaints, including answers by Western Union contesting such claims.

2. The services for which compensation are sought were performed between either May 1, 1968, or October 1, 1968, and October 31, 1969 and relate to international telegraph messages filed over the Western Union telegraph system by subscribers to that system. From May 1, 1968 until October 1, 1968 ("CD" period) Western Union had arrangements in effect whereby a telex subscriber could, by dialing specific numbers, specify that his message was to be transferred either to a designated international carrier or to the so-called "unrouted" pool for distribution to an international carrier under the section 222 formula prescribed by the Commission. These messages (except for those routed via Tropical) were carried to the Western Union "CD" office in New York City, and then transferred to the complainants. Messages routed via Tropical, which does not operate in New York were taken to another Western Union office and then transferred to Tropical. Both ITT and RCA allege that during this period they performed certain services in connection with messages transferred to them which were normally performed by Western Union.

3. Subsequently, starting October 1, 1968 ("direct access" period) a different method of handling was instituted by agreement of Western Union and complainants (except Tropical), under which messages routed by the sender via a particular carrier were transmitted directly to the operating room of the specified carrier in New York City (and Fort Lauderdale, Fla., in the case of Tropical). Unrouted messages were handled through the Western Union CD office in New York as before. Under the agreements, complainants were to be reimbursed for assuming certain handling functions, but the amount of compensation was left for later resolution and was to be subject to Commission approval. Unsuccessful efforts were made to reach an accord on the amounts to be paid, and, thus all complainants herewith are seeking Commission determination of this matter. On October 31, 1969, a further change was made by Western Union in the handling of this traffic, under which it is routed to Greensboro, N.C. (and Atlanta for Tropical), prior to transfer to the international carriers. More recently the Commission ruled that domestic telex users may, at their expenses, make a telex call directly to an international carrier to file an overseas message.

"DIRECT ACCESS" PERIOD

4. The amounts claimed in the four complaints, ascertained by slightly different methods, are as follows:

	ITT	Tropical	RCA	WUI
"CD" Period (5/1/68-9/30/68)	$33,475	.....	$23,000	.....
"Direct Access" Period (10/1/68-10/31/69)	205,091	$29,806	137,347	$175,720
Total claim	240,566	29,806	161,016	175,720

5. Western Union denies any liability with respect to functions performed during the "CD" period for which ITT and RCA request compensation, asserting that such functions were performed by complainants prior to that time. It concedes that during the "direct access" period the international carriers had performed certain additional functions, but, although denying knowledge as to the extent of such functions and demanding strict proof thereof, states that the estimated value of such functions did not exceed 13 cents per message. (ITT alleges 63 cents, Tropical alleges 78 cents, RCA alleges 57 cents, and WUI alleges 66 cents, per message.) Western Union also disputes complainant's claims

as to the number of messages handled, and generally arrives at a much lower figure than the amounts claimed.

6. Under section 207 of the Communications Act of 1934, a civil suit for recovery of money damages for which a carrier may be liable under the Communications Act may be brought either in federal district court or before this Commission. Jurisdiction over the complaints may be found in sections 222 and 201 of the Act. Since all four complaints are based on similar and contemporary facts, the Commission at this time hereby joins these matters for hearing.

Wherefore, it is ordered, That pursuant to sections 4(i), 4(j), 201, 206, 207, 208, 209, and 222 of the Communications Act of 1934, a hearing shall be held on these complaints at the Commission's Offices in Washington, D.C. at a time to be specified; and, that a hearing examiner shall be designated to preside in this complaint proceeding, who shall prepare an initial decision on the issues in this proceeding as provided in § 1.267 (47 CFR 1.267) of the Commission's rules. This initial decision shall be subject to the submission of exceptions and requests for oral argument as provided in §§ 1.276 and 1.277 of the Commission's rules (47 CFR 1.276 and 1.277) after which the Review Board shall issue its decision as provided in § 0.365 of the rules (47 CFR 0.365).

It is further ordered, That, without in any way limiting the scope of the proceeding, it shall include inquiry into the following issues:

1. Based upon applicable provisions of law, Commission rulings and agreements, understandings and arrangements between Western Union and the complainants, what were the respective responsibilities of Western Union and the complainants for providing the various operations required in the handling of telex initiated international telegraph service:

(a) Before May 1, 1968,

(b) During the "CD" period from May 1, 1968, to September 30, 1968,

(c) During the "direct access" period from October 1, 1968, to October 31, 1969; and

(d) Subsequent to October 31, 1969.

2. Were any operations which should have been performed by Western Union, in fact, partly or wholly performed by any of the complainants during the period May 1, 1968–September 30, 1968, and the period October 1, 1968–October 30, 1969.

3. To the extent that the complainants did, in fact, perform any operations which should have been performed by Western Union, what, in light of all the facts and circumstances, should be the measure and amount, if any, of damages which Western Union should be required to pay to each of the complainants.

It is further ordered, That, ITT, Tropical, RCA, WUI, and Western Union and the Chief, Common Carrier Bureau are made parties to the proceedings.

Adopted: November 3, 1971.

Released: November 8, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary.*

[FR Doc.71-16676 Filed 11-15-71;8:50 am]

FEDERAL MARITIME COMMISSION

[Docket No. 71-85]

AIR-MAR SHIPPING, INC.

Independent Ocean Freight Forwarder Application; Order of Investigation and Hearing

By letter dated October 5, 1971, Air-Mar Shipping, Inc., El Imparcial Building, Room 407, 400 Comercio Street, Old San Juan, PR 00903, was notified of the Federal Maritime Commission's intent to deny its application for an independent ocean freight forwarder license.

Reasons for the intended denial were that the applicant engaged in at least 20 instances of illegal freight forwarding without a license and on at least two occasions denied the existence of any instances of such illegal forwarding, in apparent violation of section 44(a), Shipping Act, 1916.

Air-Mar Shipping, Inc., has requested a hearing to show that denial of the application is unwarranted.

Therefore, it is ordered, Pursuant to sections 22 and 44 of the Shipping Act, 1916 (46 U.S.C. 821 and 841(b)) that a proceeding is hereby instituted to determine whether, in view of its past activities, Air-Mar Shipping, Inc., is fit, willing, and able properly to carry on the business of forwarding and to conform to the provisions of the Shipping Act, 1916, within the meaning of that statute; and whether its application should be granted or denied.

It is further ordered, That this proceeding determine whether Air-Mar Shipping, Inc., has violated section 44(a), Shipping Act, 1916.

It is further ordered, That Air-Mar Shipping, Inc., be made respondent in this proceeding and that the matter be assigned for hearing before an Examiner of this Commission's Office of Hearing Examiners on a date and place to be announced.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and a copy thereof and notices of hearing be served on the respondent.

It is further ordered, That any persons other than the respondent, who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, with a copy to respondent.

It is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.71-16656 Filed 11-15-71;8:48 am]

[Docket No. 71-88]

TWIN EXPRESS, INC.

General Increases in Rates in the U.S. Atlantic and Puerto Rico Trade; Order of Investigation and Suspension

Twin Express, Inc., filed with the Federal Maritime Commission Supplement No. 1 to its Tariff FMC-F No. 1, to become effective September 5, 1971, and later postponed until November 13, 1971. This supplement generally increases the rates and charges in the subject trade.

Upon consideration of said supplement, the Commission is of the opinion that the above designated tariff matter may be unjust, unreasonable, or otherwise unlawful and that a public investigation and hearing should be instituted to determine its lawfulness under section 18(a) of the Shipping Act, 1916, and/or sections 3 and 4 of the Intercoastal Shipping Act, 1933.

One of the cost factors which Twin Express, Inc., has submitted to the Commission as justification for its proposed increase in rates is the 18 percent cost increase in the purchase of transportation from its underlying water carriers effective August 25, 1971, which were also postponed until November 13, 1971, pursuant to the President's Executive Order of August 15, 1971, and continue to be postponed pursuant to Executive Order 11627 of October 16, 1971. Although it cannot be determined at this time that the full 26 percent increase proposed by Twin Express is justified, the Commission is of the opinion that the full exercise of suspension authority would not be warranted. The Commission believes, therefore, that in consideration of increased cost in the purchase of transportation, that as an interim measure an increase in rates in the amount of 18 percent would not be unreasonable, even though the latter increase would be more than adequate to offset the former.

Under the circumstances, and pursuant to our authority under section 2 of the Intercoastal Shipping Act, 1933, the Commission hereby waives the 30-day notice requirements. The Commission, therefore, grants authority to Twin Express to publish and file a consecutively numbered supplement to its Tariff FMC-F No. 1 on not less than 10 days' notice, publishing a script clause notation to provide for a percentage increase not to exceed 18 percent: *Provided, however,* That

[1] Commissioner Johnson absent.

such increase may not be permitted until such time as authorized by the provisions of Executive Order 11627; therefore:

It is ordered, That pursuant to the authority of section 22 of the Shipping Act, 1916, and sections 3 and 4 of the Intercoastal Shipping Act, 1933, an investigation is hereby instituted into the lawfulness of said increased rates and charges with a view to making such findings and orders in the premises as the facts and circumstances warrant. In the event the matter hereby placed under investigation is further changed, amended or reissued, such matter will be included in this investigation;

It is further ordered, That pursuant to section 3, Intercoastal Shipping Act, 1933, Supplement No. 1 to Tariff FMC–F No. 1 is suspended and the use thereof deferred to and including March 12, 1972, unless otherwise ordered by this Commission;

It is further ordered, That there shall be filed immediately with the Commission by Twin Express, Inc., a consecutively numbered supplement to the aforesaid tariff which supplement shall bear no effective date, shall reproduce the portion of this order wherein the suspended matter is described and shall state the aforesaid matter is suspended and may not be used until March 13, 1972, unless otherwise authorized by the Commission; and the rates and charges heretofore in effect, and which were to be changed by the suspended matter shall remain in effect during the period of suspension, except as hereinbefore provided, and neither the matter suspended, nor the matter which is continued in effect as a result of such suspension may be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission: *Provided, however,* That changes in rates and provisions held in effect by reasons of suspension in this docket but only to the extent that such changes will result in a reduction in rates or charges, upon lawful notice, are hereby authorized.

It is further ordered, That the granted authority to effect reductions in rates or charges does not prejudice the right of the Commission to suspend any publication submitted pursuant thereto, either upon receipt of protests or upon the Commission's own motion, and that publications issued and filed pursuant to such authority shall bear the notation: "Authority granted by the Federal Maritime Commission in its Order of Investigation and Suspension in Docket No. 71–86 to make changes in rates and provisions held in effect by reason of suspension in said Docket, but only to the extent that such departure will result in a reduction of rates or charges."

It is further ordered, That copies of this order shall be filed with the said tariff schedules in the Bureau of Compliance of the Federal Maritime Commission;

It is further ordered, That the provisions of Rule 12 of the Commission's rules of practice and procedure which require leave of the Commission to take testimony by deposition or by written interrogatory if notice thereof is served within 20 days of the commencement of the proceeding, are hereby waived for this proceeding inasmuch as the expeditious conduct of business so requires. The provision of Rule 12(h) which requires leave of the Commission to request admissions of fact and genuineness of documents if notice thereof is served within 10 days of commencement of the proceeding, is similarly waived;

It is further ordered, That Twin Express, Inc., be named as respondent in this proceeding;

It is further ordered, That this proceeding be assigned for public hearing before an examiner of the Commission's Office of Hearing Examiners and that the hearing be held at a date and a place to be determined and announced by the presiding examiner;

It is further ordered, That (I) a copy of this order shall forthwith be served on the respondent herein and published in the FEDERAL REGISTER; and (II) the said respondent be duly served with notice of time and place of hearing.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 5(1) of the Commission's rules of practice and procedure (46 CFR 502.72) with a copy to all parties to this proceeding.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.71-16657 Filed 11-15-71;8:48 am]

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSES

Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders, pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Roger Gomez, 161 Prescott Street, East Boston, MA 02128.

E. Bruce Tillman, c/o Sealand Terminal Corp., Post Office Box 1857, Gulfport, MS 39501.

United Aero Marine Services, Inc., 17 Battery Place, New York, NY 10004.

Officers and Directors:

David T. Y. Chen, Chairman Board of Directors.
Hung-Yao Kuan, President.
Charles Wang, Secretary.

Dated: November 10, 1971.

By the Commission.

FRANCIS C. HURNEY, *Secretary.*

[FR Doc.71-16662 Filed 11-15-71;8:48 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below-indicated vessels, pursuant to Part 542 of Title 46 CFR and section 11 (p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	*Owner/operator and vessels*
01017	Westfal-Larsen & Co. A/S: Risanger.
01051	Van Nievelt, Goudriaan & Co's Stoomvaart Maatschappij (Hamburg) G.m.b.H.: Polaris.
01070	P.F.S. Heering: Heering Lotte.
10121	Getty Tankers, Ltd.: Wafra.
01200	A/S Luksefjell and A/S Rudolf: Sirefjell.
01229	Belships Co., Ltd., Skibs-A/S: Belmaj.
01323	Pergamos Shipping Co., Ltd.: Marigoula.
01423	The Ocean Steamship Co., Ltd.: Neleus.
01430	Tankers, Ltd.: Athelcrown.
01548	Hain-Nourse, Ltd.: Atherstone. Cotswold. Duhallow. Fernie. Buccleuch.
01860	Insco Lines, Ltd.: Insco Jem.
01863	Trident Tankers, Ltd.: Grafton. Heythrop. Irfon. Ardlui. Ardshiel. Ardtaraig. Ardvar. Busiris. Garonne. Eridge. Maloja. Malwa. Mantua. Opawa. Orama. Orissa. Ottawa. Quiloa. Talamba.
01908	The Union-Castle Mail Steamship Co., Ltd.: Tantallon Castle. Tintagel Castle.
01946	Overseas Towage & Salvage Co., Ltd.: Britonia.

Certificate No.	Owner/operator and vessels
01998	Rederiaktiebolaget Gylfe, Helsingborg, Sweden: Ada Gorthon. Axel Gorthon.
02001	Rederiaktiebolaget Transatlantic: Yarrawonga.
02039	"Gryf" Przedsiqbiorstwo Polowow Dalekomorskich Uslug Rybachkich Szczecin, Pl. Batorego: Kamienna.
02202	Humble Oil & Refining Co.: Esso Dallas.
02306	Erling H. Samuelsens Rederi A/S: Erling H. Samuelsens.
02332	Lydes Bros. Steamship Co., Inc.: Reuben Tipton.
02348	The Navarino Shipping Corp.: Thalassoporos.
02366	Canadian Pacific Railway: Beaverelm.
02416	Boland & Cornelius, Inc.: J. L. Reiss. W. E. Fitzgerald.
02423	Sun Line Greece Special Shipping Co., Inc.: Stella Maris II.
02446	Cosmopolitan Shipping Co., S.A.: Stephanie Conway.
02453	The Turnbull Scott Shipping Co., Ltd.: Baxtergate.
02551	Ellerman Lines, Ltd.: City of Birmingham.
02565	American Foreign Steamship Corp.: American Hawk.
02877	Nippon Yusen Kabushiki Kaisha (The Japan Mail Steamship Co., Ltd.): Oceania Maru. Aizu Maru.
02889	Showa Kaiun K.K.: Hirstsuka Maru.
02911	Sig. Bergesen d. y. & Co.: Berge Odel.
02920	Atlantic Shipping, Inc.: Dora.
03076	M. L. Crochet Towing Co., Inc.: Crochet 112.
03255	Port Line, Ltd.: Port Vindex. Wellington Maru.
03501	Osaka Shosen Mitsui Senpaku K.K.: Hawaii Maru.
03559	Aksjeselskapet Pelagos: Perikum. Pelikan. Pepita. Pontia.
03611	Villain & Fassio E Compagnia Internazionale Di Genova Societa Riunite Di Navigazione S.p.A.: Carlin Fassio.
04077	Fritzen Schiffsagentur und Bereederungs-G.m.b.H.: Helma Entz.
04312	Noank Navigation, Inc.: Mystic Mariner.
04359	Reederei Nord Klaus E. Oldendorff: Nordhaff. Nordmark.
04539	Mr. Kusugoro Yamamoto: Senshu Maru No. 7.
04543	Mr. Iwao Miki: Keifukumaru No. 5.
04702	N. V. Huis En Hof: Sporonia.
04768	Texaco Overseas Tankship, Ltd.: Texaco Pembroke.
05006	Petrolaro Shipping Co., Ltd.: Oroutsa. Brigitte. Orosol. Queen Solica.
05386	Zip Corp.: S/S Reading.
05598	Pateras Brothers, Ltd.: Suerte.
05743	Reederei Barthold Richters: Hamburger Wall.
05942	Empresas Armadoras S.A., Panama: "Hull 911" T.B.N.
05991	Fukukyu Gyogyo Kabushiki Kaisha: Fukukyu Maru No. 8.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-16658 Filed 11-15-71;8:48 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 11(p)(1) of the Federal Water Pollution Control Act, as amended, and, accordingly, have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	Owner/operator and vessels
01108	Hvalfangeraktieselskapet "Rosshavet" Hvalfangeraktieselskapet "Vestfold": Ross Lake.
01123	Hemisphere Transportation Corp.: J. Paul Getty.
01304	Furness, Withy & Co., Ltd.: Furness Bridge.
01533	Henry Nielsen OY/AB: Solano.
01606	Oil Transport Co., Inc.: Bayou Teche. Bayou Richard. Bayou Chevreuil. Bayou Sauvage. Bayou Villere. Abaco Pittsburgh. Abaco Louisville. Bayou Heron. Bayou Elou. Bayou Indigo. Bayou Maxent. Chotin 1255. Chotin 1256. CTX 248. RTX 348. Bayou Willow. Bayou Ulisse. Bayou Ferblanc. Bayou Gentilly. Bayou Jean. Bayou LaFourche. OTC 64. DXE 72. DXE 74. Bayou Napoleon. Bayou Perot. Bayou Kent. LRL 112. OTC 62.
04768	OTC 61. Russ Smith. Bayou Boeuf. Bayou LaCombe. Frank B. Durant. Bayou Couba. Bayou LaRose. Tulagi. Bayou Queue.
02126	Morania Oil Tanker Corp.: Morania No. 210.
02128	Ocean Gas Transport, Ltd.: Cavendish.
02194	Compagnie Generale Transatlantique: De Grasse.
02330	Oriental Shipping Corp.: Oriental Nation.
02677	Partenreederei M/S Ellen Isle: Ellen Isle.
02889	Showa Kaiun K.K.: Kensho Maru.
02982	The Shipping Corporation of India, Ltd.: Lal Bahadur Shastri. Vishva Shobha. Vishva Vijay.
03006	Rederi Ab Wallship: Aida.
03138	Cunard Line, Ltd.: Cunard Adventurer.
03294	Companhia de Navegacao Lloyd Brasileiro: Rosa da Fonseca. Anna Nery.
03422	Daiwa Kaiun Kabushiki Kaisha: Hiei Maru.
03438	Inui Kisen Kabushiki Kaisha: Kenryu-Maru.
03460	Mibae Shosen Kabushiki Kaisha: Biak Maru.
03508	Taiyo Gyogyo K.K.: Juyo Maru.
03531	Yuyo Kaiun K.K.: Yusho Maru.
04002	Compagnie Des Messageries Maritimes: Moroni.
04136	Thomas Marine Co.: TM28.
04173	Foss Launch & Tug Co.: Foss 116.
04437	Lebeouf Bros. Towing Co., Inc.: BB-6.
04794	Sea King Corp.: Grand Valor.
04890	Marine Fueling, Inc.: MO-643.
05078	Woods Hole Oceanographic Institution: Atlantis II.
05470	Charter Transport Line, Inc.: Witislander. Witcroix.
05579	Black Sea Steamship Co.: Sokol. Suzdal. Alexandr Tsyurupa. Simferopol. Slavsk. Slutsk. Sovetsk. Semipalatinsk. Sudzha. Salavat. Stoletiye Parizhskoy Kommuny. Klim Voroshilov. Donetskiy. Shakhtyer. Donetskiy Komsomolets. Donetskiy Khimik. Donetskiy Metallurg.

Certificate No.	Owner/operator and vessels
05579---	Pyatidesyatiletie Komsomola. Kotovskiy. Chapaev. Sergey Lazo. Parkhomenko. Nikolay Shchors. Novovoronezh. Poseydon. Gordeliviy. Golovnoy. Gromovoy. Floating Crane Tchernomorets-10. Floating Crane 103. Floating Crane 97. Yury Gagarin. Metallurg Anosov. Lenisky Pioner. Krasnoe Znamia. Ravenstvo. Yuny Leninets. Fizik Vavilov. Mezhgorie. Mozyrj. Molodogvardeisk. Romain Rolan. Aleksey Tolstoy. Murom. Matsesta. Irkutsk. Ismail. Izhora. Kapitan Lukhmanov. Sochi. Svanetija. Komsomoljskaja Slava. Syzran. Severodonetsk. Ilya Kulik. Akademik Evgeniy Paton. Kapitan Plaushevsky. Sevan. Serov. Serebryansk. Sosnogorsk. Leninsky Komsomol. Metallurg Baikov. Metallurg Bardin. Khirurg Vishnevsky. Transbalt. Fizik Lebedev. Dubrovnik. Komandarm Matveev. Fedor Gladkov. Atlant. Gordy. Geroichesky. Ivan Franko. Taras Shevchenko. Akademic Sergey Korolev. Kosmonavt Vladimir Komarov. Frederik Jolio-Kurie. Metallurg Kurako. Akademik Shimansky. Krasny Ostiabrj. Valentina Tereshkova. Bratstvo. Khimik Zelinsky. Kapitan Kushnarenko. Nikolay Dobroljubov. Alexandr Blok. Alexandr Gertsen. Dmitry Gluia. Nazym Khirmet. Arkady Gajdar. Kommunist. Kommunisticheskoe Znamya. Jeanne Labourbe. 50 Let Sovetskoj Ukrainy. Nikolay Kremlyansky. Belta Kun. Ignatiy Sergeev. Inessa Armand. Toyvo Antikaynen.
05579---	Fridrikh Engels. Ernst Thelman. Georgiy Dimitrov. Iona Yakir. Dmitry Poluyan. Rosa Luxemburg. Georgiy Chicherin. Karl Libknekht. Djuseppe di Vittorio. Frantz Bogusch. Oktiabrjskaja Revoljutzija. Partizanskaia Iskra. Partizanskaia Slava. Shota Rustaveli. Svoboda. Kremkj. Fizik Kurchatov. Krasnaia Presnia. Berezovka. Babushkin. Pavlovsk. Briansky Rabochy. Alexandr Grin. Nikolay Ogarev. Vissarion Belinsky. Musa Dzhalil. Demian Bedny. Pula. Berezniki. Kosmonavt. Belitsk. Belovodsk. Beloretsk. Bezhitsa. Nikolaev. Balashikha. Belgorod Dnestrovsky. Bratslav. Berislav. Baymak. Bakuriani. Nikolay Gogolj. Michurin. Samuil Marshak. Mozhajsk. Mariinsk. Mytischi. Slaviansk. Mezhdurechensk. Mtsensk. Medynj. Margelan. Boris Lavrenev. Millerovo. Mozdok. Minsk. Bijsk. Morshansk. Molochansk. Mukachevo. Fedor Litke. Sarny. Lesozavodsk. Labinsk. Bolshevik Sukhanov. Marneuli. Perekop. Kapitan Visloborov. Pridneprovsk. Dmitry Furmanov. Ivan Goncharov. Anton Makarenko. Nikolay Nekrasov. Boris Gorbatov.
05630---	Newport News Shipbuilding and Dry Dock Co.: Amoco Delaware Forebody.
05640---	Manson Construction & Engineering Co. and General Construction Co. ZB 1000.
05986---	A/S Trans-Kosan: Hanne Thqlstr.
05985---	Murata Gyogyo Kabushiki Kaisha: Taiko Maru No. 38.
05986---	Kabushiki Kaisha Matsuei Suisan: Marsuei Maru No. 11.
05988---	Maekatsu Gyogyo Kabushiki Kaisha: Katsu Maru No. 31.
06020---	M/V "Frances Ann": Frances Ann.
06021---	Gamma Fishing Co., Inc.: Venturess.
06022---	Epsilon Fishing Co., Inc.: Denise Marie.
06030---	Gremco Towing Co., Inc.: Gremco.
06082---	Tramontana Shipping Corp.: Tramontana.
06129---	Azov Steamship Co.: Ustilug. Ustyushna. Uryupinsk. Urgentsh. Usolye. Urizk. Urshum. Ugleuralsk. Odesskiy Komsomolets. Komsomolskaya Pravda. Smena. Komsomolets. Dubno. Dubossary. Dolmatovo. Dobrush. Debalcevo. Dshankoi. Zakarpatye. Zlatoust. Zapprpzye.
06134---	Transatlantic Carriers S.A.: Aegis Scope.
06159---	Naviera Neptuno S.A.: Mercurio.
06177---	Burmah Oil Tankers, Ltd.: Burmah Lapis. Burmah Jade.
06182---	Sunland Shipping Co. S.A.: Afro.
06224---	Hendry Corp.: Dredge 4. St. Louis.
06229---	Elpida Compania Naviera S.A.: Elpis.
06230---	Thelisis Compania Naviera S.A.: Annoula.
06266---	Engineering Consultants, Ltd.: H-1070. H-1060.
06273---	Dowa & Co., Ltd.: Silver Longevity.
06287---	Gates Equipment Corp.: 210. Mary. Elly B. Harry. 250. 270. Prock 19.
06291---	Thasian Shipping Co., Inc., Monrovia: Delphic Eagle.
06314---	Fukumaru Gyogyo Kabushiki Kaisha: Fulu Maru No. 5.
06319---	Itanos Compania Naviera S.A.: Ioannis A.
06321---	Shimat Marine, Inc.: Sun Europa.
06322---	Dilmun Navigation Co., Ltd.: Pacific Navigator. Pacific Mariner.
06323---	Athenian Tankers Management S.A. of Panama R.P.: Athenian Victory.
06324---	Tenacity Seafaring Corp.: Tenacity.

Certificate No.	Owner/operator and vessels
06327---	Calas Shipping Co.: Geneve.
06328---	Champel Shipping Co.: Hamburg.
06329---	Interessentskapet Jark: Jark.
06330---	Saint Asimi Maritime Co., Ltd: St. Asimi.
06331---	Patenreederei M/S "Matthias Reith": Matthias Reith.
06333---	Ishikawa Prefectural Government: Kano Maru.
06306---	West Cruise Lines, Inc.: Pacific Star.
06334---	S & H Towing Co., Inc.: S & H No. 1.
06335---	Akamas Shipping Co., Ltd.: Aegis Fable.
06336---	Mr. Sadao Ogino: Koryo Maru No. 31.
06337---	H & S Towing Co., Inc.: H & S No. 2. H & S No. 3.
06338---	Runciman Steamship Co.: Fernmoor.
06339---	Panoceanic Marine Products Co., Inc.: Endeavourers No. 1.
06340---	Daikyo Tanker K.K.: Tohkai Maru. Daikyo Maru. Jingu Maru. Suzuka Maru.
06342---	First Freighter Co., Ltd.: Aegis Eternity.
06343---	Fairsea Shipping Corp., Monrovia: Fairsea.
06344---	A/S Reefer Shipping: Cool Girl.
06345---	Moonflower Shipping Co., S.A.: Rhetoric.
06347---	Marlineas Mundiales S.A.: M/T Mar Star.
06348---	Liberian Zodiac Transports, Inc.: Eastern Wave.
06349---	Liberian Rose Transports, Inc.: Asia Rose.
06350---	Windsor Detroit Barge Line, Ltd.: Prescotont.
06351---	Southern Shipbuilding Corp.: Southern No. 1.
06352---	London Shipowning Co., Ltd.: London Pride.
06353---	International Caribbean Shipping, Inc., S.A.: Portland.
06354---	Habomai Gyogyo Kyodo Kimiai: Habomai Maru No. 53.
06355---	Aluminum Co. of America: Alcoa Seaprobe.
06356---	Federal Commerce and Navigation Co., Ltd.: Federal Hudson.
06359---	Malaysian International Shipping Corp. Berhad: Bunga Chempaka. Bunga Raya. Bunga Melor. Bunga Orkid. Bunga Tanjong.
06260---	Empress Shipping Co., Ltd.: Atlantic Empress.
06364---	Panvia Compania Naviera S.A.: Marco Botzaris.
06373---	Viaguardia Compania Naviera S.A.: Sunjarv.
06375---	Panoceanica Gallante S.A.: Albireo.
06378---	Shoei Kisen Kaisha, Ltd.: Marugame Maru.
06379---	New England Towing Co.: Rhode Island.
06381---	Windward Tranportation Co.: Cherokee.
06382---	Black Bay Transportation Co.: Apache. Comanche.
06383---	West Bay Transportation Co.: Cape Charles. Cape Henry.
06384---	Regency Transportation, Ltd.: Cedros Pacific.
06391---	Saint Croix Compania Naviera S.A. of Panama: Gold Star.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-16659 Filed 11-15-71;8:48 am]

FEDERAL POWER COMMISSION

[Docket No. CS71-829 etc.]

MARINE MINERALS, INC., ET AL.

Findings and Order

NOVEMBER 4, 1971.

Findings and order after statutory hearing issuing small producer certificates of public convenience and necessity, terminating certificates, canceling FPC gas rate schedules, terminating rate proceedings, making successor co-respondent, and redesignating proceeding.

Each applicant herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for small producer certificates of public convenience and necessity authorizing sales of natural gas in interstate commerce, all as more fully set forth in the applications and the appendix below.

Certain applicants are presently authorized to sell natural gas pursuant to FPC gas rate schedules on file with the Commission. The certificates authorizing said sales will be terminated and the related rate schedules will be canceled. Some sales made pursuant to the certificates terminated herein and the canceled FPC gas rate schedules were made at rates in effect subject to refund. Certain proceedings in which these increased rates have been collected subject to refund by any of these applicants and were equal to or below area ceiling rates will be terminated.

Sabio Oil & Gas, Inc., applicant in Docket No. CS72-15, proposed to continue the sales of natural gas heretofore authorized in Dockets Nos. G-14980 and G-16288 to be made pursuant to Carter-Jones Drilling Co., Inc., FPC gas rate schedules Nos. 10 and 12, respectively. The rates at the time of the assignment were effective subject to refund in Docket No. RI61-546 for sales under Carter-Jones' FPC gas rate schedule No. 10. Therefore, applicant will be made co-respondent in said proceeding and the proceeding will be redesignated accordingly.

After due notice by publication in the FEDERAL REGISTER, no petition to intervene, notice of intervention or protest to the granting of the applications was filed.

The Commission's staff has reviewed the applications and recommends each action as consistent with all substantive Commission policies and required by the public convenience and necessity.

At a hearing on October 8, 1971, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each applicant is or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption subject to the jurisdiction of the Commission, and is, therefore, a "natural-gas company" or will be when the initial delivery is made, within the meaning of the Natural Gas Act.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications herein, will be made in interstate commerce subject to the jurisdiction of the Commission, and such sales by applicants are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) Each applicant is an independent producer of natural gas which is not affiliated with a natural gas pipeline company and whose total jurisdictional sales on a nationwide basis, together with sales of affiliated producers, were not in excess of 10 million Mcf at 14.65 p.s.i.a. during the preceding calendar year.

(5) The sales of natural gas by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity, and small producer certificates of pubic convenience and necessity therefor should be issued as hereinafter ordered and conditioned.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates of public convenience and necessity heretofore issued to applicants should be terminated and that the related FPC gas rate schedules should be canceled.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Sabio Oil & Gas, Inc., should be made a corespondent in the proceedings pending in Docket No. RI61-546 and that said proceeding should be redesignated accordingly.

The Commission orders:

(A) Small producer certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing the sale for resale and delivery of natural gas in interstate commerce by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as

hereinbefore described and as more fully described in the applications in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission and particularly:

(1) The subject certificates shall be applicable only to all small producer sales as defined in § 157.40(a)(3) of the regulations under the Natural Gas Act; and

(2) Applicants shall file annual statements pursuant to § 154.104 of the regulations under the Natural Gas Act.

(C) The certificates granted in paragraph (A) above shall remain in effect for small producer sales until the Commission on its own motion or on application terminates said certificates because applicants no longer qualify as small producers or fail to comply with the requirements of the Natural Gas Act, the regulations thereunder, or the terms of the certificates. Upon such termination, applicants will be required to file separate certificate applications and individual rate schedules for future sales. To the extent compliance with the terms of this order is observed, the small producer certificates will still be effective as to sales already included thereunder.

(D) The grant of the certificates in paragraph (A) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act or Part 157 of the regulations thereunder and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against applicants. Further, our action in this proceeding shall not foreclose any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. The grant of the certificates aforesaid for service to the particular customers involved, shall not imply approval of all of the terms of the contracts, particularly as to the cessation of service upon the termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales subject to said certificates.

(E) The certificates heretofore issued to applicants for sales proposed to be continued under small producer certificates are terminated and the related FPC gas rate schedules are canceled as indicated in the appendix below.

(F) Certain proceedings in which applicants' increased rates have been made effective subject to refund and are equal to or below the applicable area base rate are terminated as indicated in the appendix below.

(G) Sablo Oil & Gas, Inc., is made a correspondent in the proceeding pending in Docket No. RI61-546 and said proceeding is redesignated accordingly. Sablo is not relieved of any refund obligation for sales from April 1, 1971, under the contracts on file as Carter-Jones Drilling Co., Inc., FPC gas rate schedule No. 10 to July 7, 1971.

(H) This order does not relieve any of the applicants herein of any responsibility imposed by, and is expressly subject to, the Commission's statement of policy implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38), including such amendments as the Commission may require, and Executive Order No. 11615.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX

Docket No. and filing date	Applicant	Canceled FPC Gas rate schedule	Terminated certificate docket No.	Terminated rate increase docket No.
CS71-820 5-4-71	Marino Minerals, Inc. (Operator) et al.	[1] 1	CI63-693	
CS71-830 5-4-71	Frank C. Nelms et al.			
CS71-857 5-6-71	Investors Royalty Co., Inc. (Operator), et al.	1	G-18603	RI69-826.
	do	2	CI62-321	
	do	3	G-17025	
	do	4	CI70-65	
CS72-15 7-7-71	Sablo Oil & Gas, Inc. (Operator) et al.	[1] 10	G-14280 [1]	
		[1] 12	G-16288 [1]	
CS72-34 7-14-71	H. Huffman & Co.			
CS72-35 7-14-71	Jack L. Stanford			
CS72-36 7-14-71	Potts-Stephenson Exploration Co.			
CS72-37 7-14-71	Jack Corman			
CS72-38 7-14-71	Allied Materials Corporation (Operator) et al.	1	CI60-455	RI64-438.
		2	CI61-602	RI67-442.
		3	CI63-107	
CS72-44 7-16-71	Roy L. Cook, Trustee et al.	1	CI62-619	
	do	2	CI63-60	
	do	4	CI65-509	
	do	5	CI62-1291	
CS72-45 7-16-71	Piedra Corp.	1	CI62-1292	
CS72-57 7-22-71	W. O. Matejowsky			
CS72-58 7-22-71	Paramount Producing, Inc.			
CS72-59 7-22-71	Virginia C. Ramsey et al.	2	G-5337	
		[2] 2	G-5337 [2]	
CS72-61 7-22-71	John Trenchard, et al.	1	G-3695	
CS72-62 7-23-71	Keener Oil Co.	1	G-12575	
	do	2	G-16462	
	do	3	CI61-1207	
	do	4	CI62-1532	
	do	5	CI60-534	
	do	6	CI63-381	
	do	7	CI63-1301	
	do	8	CI67-970	
CS72-63 7-23-71	Joe M. Leonard, Jr.	2	G-19436	
CS72-64 7-23-71	James J. Johnston			
CS72-65 7-26-71	Yates Drilling Co.			
CS72-68 7-26-71	Universal Resources Corp.			
CS72-69 7-26-71	J. B. Whisenant	1	G-3636	RI62-461.
CS72-70 7-26-71	Mary H. Trenchard	1	CI64-226	
CS72-71 7-26-71	Halliburton Oil Producing Co. et al.	1	CI66-507	
CS72-73 8-3-71	Allyn D. Barrett			
CS72-97 8-2-1	El Santo Petroleum Corp.			
CS72-99 8-4-71	Harry J. Parker, II			
CS72-100 8-2-71	Euramerica Corp.			
CS72-101 8-2-71	Euramerica 1970-A Partnership			
CS72-102 8-2-71	O. Walter Doble			

[1] Certificate and Rate Schedule on file as Carter-Jones Drilling Co., Inc.
[2] Certificate and Rate Schedule on file as Floyd C. Ramsey.

[FR Doc.71-16595 Filed 11-15-71;8:45 am]

FEDERAL RESERVE SYSTEM

FIRST CITY BANCORPORATION OF TEXAS, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by First City Bancorporation of Texas, Inc., which is a bank holding company located in Houston, Tex., for prior approval by the Board of Governors of the acquisition by Applicant of 83.28 percent or more of the voting shares of The Midland National Bank, Midland, Tex.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Dallas.

Board of Governors of the Federal Reserve System, November 9, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16649 Filed 11-15-71;8:47 am]

FIRST NATIONAL BANK HOLDING COMPANY, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by First National Bank Holding Company, Inc., Pinedale, Wyo., for prior approval by the Board of Governors of action whereby Applicant would became a bank holding company through the acquisition of 83.45 percent of the voting shares of First National Bank of Pinedale, Pinedale, Wyo.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Kansas City.

Board of Governors of the Federal Reserve System, November 10, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16650 Filed 11-15-71;8:47 am]

FIRST AT ORLANDO CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of First at Orlando Corp., Orlando, Fla., for approval of acquisition of 90 percent or more of the voting shares of National Bank Gulf Gate, Sarasota, Fla.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First at Orlando Corp., Orlando, Fla., for the Board's prior approval of the acquisition of 90 percent or more of the voting shares of National Bank Gulf Gate, Sarasota, Fla.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency, and requested his views and recommendation. The Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on August 28, 1971 (36 F.R. 17384), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired, and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's statement[1] of this date, that said application be and hereby is approved, provided that the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[2] November 9, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16627 Filed 11-15-71;8:45 am]

FIRST AT ORLANDO CORP.

Order Denying Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of First at Orlando Corp., Orlando, Fla., for approval of acquisition of 90 percent or more of the voting shares of National Bank of Sarasota, Sarasota, Fla.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First at Orlando Corp., Orlando, Fla., for the Board's prior approval of the acquisition of 90 percent or more of the voting shares of National Bank of Sarasota, Sarasota, Fla.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency, and requested his views and recommendation. The Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on August 28, 1971 (36 F.R. 17384), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Atlanta.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Maisel, Brimmer, and Sherrill. Absent and not voting: Governors Robertson and Daane.

was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired, and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's Statement[1] of this date, that said application be and hereby is denied.

By order of the Board of Governors,[2] November 9, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16628 Filed 11-15-71;8:45 am]

FIRST TENNESSEE NATIONAL CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of First National Holding Corp.,[1] Memphis, Tenn., for approval of acquisition of 100 percent of the voting shares of the successor by merger to The Banking & Trust Co., Jonesboro, Tenn.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First National Holding Corp.,[2] Memphis Tenn., a bank holding company, for the Board's prior approval of the acquisition of 100 percent of the voting shares of the successor by merger to The Banking & Trust Co., Jonesboro, Tenn. (Bank).

The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of the shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Superintendent of Banks of the State of Tennessee and requested his views and recommendation. The Superintendent offered on objection to consummation of the proposal.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 11, 1971 (36 F.R. 18347), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, the largest bank holding company and second largest banking organization in Tennessee, has one subsidiary bank with $738.7 million in deposits, representing approximately 9.9 percent of the total commercial bank deposits in the State. (All banking data are as of December 31, 1970, adjusted to reflect holding company formations and acquisitions approved by the Board through September 30, 1971.) Consummation of the proposal herein would increase applicant's share of deposits to 10.2 percent and would make applicant the largest banking organization, measured by both total deposits and banking offices, in the State.

Bank ($24.5 million deposits), with 18.1 percent of the deposits held by commercial banks in the Jonesboro banking market, approximated by Washington County, ranks third among the four banking organizations in that market. The distance of approximately 500 miles that separates Bank and applicant's only subsidiary bank has precluded the existence of significant competition between the two institutions, and the State's restrictive branching law effectively prohibits the development of future competition between Bank and applicant's present subsidiary. Consummation of the proposal would have a procompetitive effect by enhancing Bank's ability to compete with the two larger banks competing in the Jonesboro banking market both of which are subsidiaries of multibank holding companies and which together hold more than 80 percent of the total deposits held by commercial banks in the market. Based upon the foregoing, the Board concludes that consummation of the proposal would not have an adverse effect on competition in any relevant area.

The financial and managerial resources and future prospects of applicant and its subsidiary bank are satisfactory and are consistent with approval. Considerations relating to the financial and managerial resources and future prospects of Bank lend weight in support of approval, since applicant intends to strengthen Bank's less than satisfactory capital position. Although all major local banking needs are presently being served in the Jonesboro banking market, considerations relating to the convenience and needs of the communities to be served lend some weight toward approval. Bank's competitive ability should be strengthened by consummation of this proposal. Furthermore, applicant plans to expand Bank's trust services and to add international and data processing services to those services presently offered by Bank.

It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of St. Louis pursuant to delegated authority.

It is further ordered, That upon the consummation of the proposed transaction, applicant shall not retain or acquire any nonbank shares or engage in any nonbanking activities to a greater extent or for a longer period than would apply in the case of a bank holding company which became such on the date of such consummation, except to the extent otherwise permitted in any regulation of the Board hereafter adopted specifically relating to the effect of the acquisition of an additional bank on the status of nonbank shares and activities of a one-bank holding company formed prior to 1971, or unless the Board fails to adopt any such regulation before the expiration of 2 years after the consummation of the proposed acquisition.

By order of the Board of Governors,[2] November 9, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16629 Filed 11-15-71;8:45 am]

FIRST TULSA BANCORPORATION, INC.

Proposed Acquisition of Hall Investment Co.

First Tulsa Bancorporation, Inc., Tulsa, Okla., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(a)(8)) and § 222.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Hall Investment Company, Tulsa, Okla. Notice of the application was published on October 4, 1971, in the Tulsa World, a newspaper circulated in Tulsa, Okla., and on October 11, 1971, in the Daily Oklahoman, a newspaper circulated in Oklahoma City, Okla.

Applicant states that the proposed subsidiary would perform the activities of originating, brokering, and servicing real estate mortgage loans. Such activities have been specified by the Board in § 222.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 222.4(b).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Atlanta.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Maisel, Brimmer and Sherrill. Absent and not voting: Governors Robertson and Daane.

[3] During consideration of this application, the Board has been formally apprised that applicant has changed its name to First Tennessee National Corp.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Governor Robertson.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 9, 1971.

Board of Governors of the Federal Reserve System, November 9, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16630 Filed 11-15-71;8:45 am]

FIRST VIRGINIA BANKSHARES CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of First Virginia Bankshares Corp., Arlington, Va., for approval of acquisition of 100 percent of the voting shares of the successor by merger to Bank of Surry County, Inc., Surry, Va.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First Virginia Bankshares Corp., Arlington, Va., a registered bank holding company, for the Board's prior approval of the acquisition of 100 percent of the voting shares of the successor by merger to Bank of Surry County, Inc., Surry, Va. ("Bank"). The bank into which Bank is to be merged has no significance except as a means of acquiring all of the shares of Bank. Accordingly, the proposed acquisition of the shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Virginia Commissioner of Banking and requested his views and recommendation. The Commissioner offered no objection to consummation of the proposal.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 21, 1971 (36 F.R. 18760), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, the sixth largest banking organization in Virginia, controls 16 banks with aggregate deposits of $478.5 million, representing 6 percent of total commercial bank deposits in the State. (All banking data are as of December 31, 1970, and reflect holding company formations and acquisitions approved through September 30, 1971.) The acquisition of Bank ($5.3 million deposits) would increase applicant's share of deposits in the State by only .07 percentage point, representing no significant increase in applicant's control of deposits in the State, or change in applicant's present ranking. In separate applications filed concurrently with the instant matter, applicant proposes to acquire 100 percent of the voting shares of the successor by merger to The Bank of Westmoreland, Colonial Beach, Va., and to organize de novo First Commercial Bank, Orange, Va. Affiliation of both banks in addition to the one proposed here would increase applicant's share of the total commercial bank deposits in Virginia to 6.4 percent and would not, therefore, have any significant effect on the concentration of banking resources in the State or on applicant's statewide competitive position.

Bank operates its sole office in the town of Surry, and is the only banking institution located in Surry County. Bank's major competition comes from banks located in the adjacent counties of Sussex, Southampton, and Isle of Wight. The office of any of applicant's subsidiary banks closest to Bank is located 34 miles southeast of Bank. No present competition of any significance exists between Bank and this office, or any of applicant's other offices. On the facts of record, notably Virginia's restrictive branching laws and the distances between offices of applicant's subsidiaries and Bank, it appears unlikely that consummation of the subject proposal would preclude potential competition. Further, the steady decline in population which Surry County has experienced over the past decade suggests that de novo entry by applicant is not warranted. Based on the foregoing, and the record before it, the Board concludes that consummation of the proposed acquisition would not have an adverse effect on competition in any relevant market.

The financial and managerial resources and prospects of applicant, its subsidiaries, and Bank are regarded as satisfactory and consistent with approval of the application. As a result of affiliation with applicant, Bank would be in a position to offer trust and other banking services it is now unable to provide. Moreover, applicant will be able to provide Bank with administrative and technical support in such areas as personnel, auditing, data processing, investments, and mortgage banking. Considerations relating to the convenience and needs factors, therefore, lend some weight in support of approval of the application. It is the Board's judgment that consummation of the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,[1] November 9, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16651 Filed 11-15-71;8:47 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

NOVEMBER 11, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 133488 Sub 1, R.F.P. Trucking, Inc., assigned February 28, 1972, at Boston, Mass.

MC 14552 Sub 39, J. V. McNicholas Transfer Co., assigned January 10, 1972, at Columbus, Ohio.

MC 128698 Sub 4, Erdner Bros., Inc., assigned November 17, 1971, at Washington, D.C., postponed to December 1, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 8768 Sub 35, Security Van Lines, Inc., assigned December 6, 1971, at New Orleans, La., is canceled and application dismissed.

MC-C-7421, Dixie Ohio Express, Inc.—Investigation and Revocation of Certificates—assigned January 14, 1972, at Columbus, Ohio.

MC 114457 Sub 83, Dart Transit Co., assigned November 30, 1971, at Washington, D.C., is canceled and application dismissed.

[1] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Governor Robertson.

MC-C-7410, Hubert Jones & Son Trucking and Crane Service, Inc., Investigation of Operations, assigned January 19, 1972, at Columbus, Ohio.

MC 107515 Sub 748, Refrigerated Transport Co., assigned December 20, 1971, at Washington, D.C., canceled and application dismissed.

MC 21866 Sub 67, West Motor Freight, Inc., assigned December 20, 1971, at Washington, D.C., is postponed to January 10, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

Finance Docket No. 12131, Boston and Providence Railroad Corp. Reorganization, now being assigned hearing January 4, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 61592 Sub 211, Jenkins Truck Line, Inc., assigned January 20, 1972, at Columbus, Ohio.

MC 73165 Subs 290 and 291, Eagle Motor Lines, Inc., assigned January 21, 1972, at Columbus, Ohio.

MC 117565 Sub 38, Motor Service Co., Inc., assigned January 12, 1972, at Columbus, Ohio.

MC 123407 Sub 79, Sawyer Transport, Inc., assigned January 18, 1972, at Columbus, Ohio.

MC 129187 Sub 1, Clay Products Transport, Inc., assigned January 17, 1972, at Columbus, Ohio.

MC 110585 Sub 15, Republic Van & Storage Co., Inc., assigned November 15, at Philadelphia, will be held in the U.S. Customs Courtroom, Third Floor, U.S. Customshouse, Second and Chestnut Streets, Philadelphia, Pa.

MC 130139, Leisure, Inc., now assigned November 15, 1971, at Boston, Mass., postponed indefinitely.

MC-F 11155, Woster-Iowa, Inc.—Merge—Powers Transportation, Inc., assigned January 19, 1972, at Washington, D.C., is cancelled and transferred to modified procedure.

MC 105045 Sub 21, R. L. Jeffries Trucking Co., Inc., assigned for Washington, D.C., application dismissed.

MC 66886 Sub 13, Belger Cartage Service, Inc., assigned for Washington, D.C., application dismissed.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16673 Filed 11-15-71;8:49 am]

ASSIGNMENT OF HEARINGS

NOVEMBER 11, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

CORRECTION

No. MC 135435, Dale Smart, doing business as Dale Smart Trucking, now being assigned hearing December 1, 1971, instead of December 2, 1971, in Room 3A19 Federal Building, 1100 Commerce Street, Dallas, Tex.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16672 Filed 11-15-71;8:49 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 9, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42300—*Carbon tetrachloride from points in Louisiana and Texas.* Filed by Southwestern Freight Bureau, agent (No. B-263), for interested rail carriers. Rates on carbon tetrachloride, in tank carloads, as described in the application, from specified points in Louisiana and Texas, to Chicago, Ill., and points taking same rates, East St. Louis, Ill., and St. Louis, Mo.

Grounds for relief—Market competition and rate relationship.

Tariffs—Supplements 304 and 85 to Southwestern Freight Bureau, agent, tariffs ICC 4668 and 4899, respectively. Rates are published to become effective on December 13, 1971.

FSA No. 42301—*Rubber and rubber compounds to Gaird, Ala.* Filed by Southwestern Freight Bureau, agent (No. B-265), for interested rail carriers. Rates on rubber and rubber compounds, in carloads, as described in the application, from Addis, La., to Gaird, Ala.

Grounds for relief—Rate relationship.

Tariff—Supplement 1 to Southwestern Freight Bureau, agent, tariff ICC 4982. Rates are published to become effective on December 13, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16671 Filed 11-15-71;8:49 am]

[Notice 395]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 9, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 31600 (Sub-No. 655 TA), filed November 1, 1971. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION INC., Calvary Street, Waltham, Mass. 02154. Applicant's representative: David McAllister (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete slabs*, from Hooksett, N.H., to Morrisville (Madison County) and Potsdam (St. Lawrence County) N.Y., for 120 days. Supporting shipper: Duracrete Block Co., 1359 Hooksett Road, Hooksett NH 03106. Send protests to: James F. Martin, Assistant Regulation Director, Interstate Commerce Commission, Bureau of Operations, JFK Federal Building, Government Center, Boston, Mass. 02203.

No. MC 52460 (Sub-No. 110 TA), filed October 29, 1971. Applicant: HUGH BREEDING, INC., 1420 West 35th Street, Post Office Box 9515, Tulsa, OK 74107. Applicant's representative: Steve B. McCommas (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer solution*, in bulk, in tank vehicles, from the port of Muskogee, Muskogee, Okla., to points in Kansas, and *return of rejected shipments*, for 180 days. Supporting shipper: Allied Chemical Corp., Post Office Box 2061R, Morristown, NJ 07960. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 52861 (Sub-No. 26 TA), filed November 2, 1971. Applicant: WILLS TRUCKING, INC., 2535 Center Street, Cleveland, OH 44113. Applicant's representative: Paul W. Wills (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Recarborizing coke*, from Toledo and Cleveland, Ohio to Farrell, Pa., to all points in Ohio, for 180 days. Supporting shipper: Hickman, Williams & Co., 1 Erieview Plaza, Cleveland, OH 44114. Send protests to: District Supervisor G. J. Baccei,

Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 84528 (Sub-No. 19 TA), filed November 1, 1971. Applicant: AUTOMOBILE TRANSPORT COMPANY OF CALIFORNIA, 1650 West 139th Street, Gardena, CA 90247. Applicant's representative: Lynn B. Hansen (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles and pickup trucks*, from San Ysidro, Calif., to points in San Diego, Orange, Los Angeles, Riverside, San Bernardino, Imperial, Kern, San Luis Obispo, Ventura, Inyo, and Santa Barbara Counties, Calif., for 180 days. Supporting shipper: Nissan Motor Corp., in United States, 137 East Alondra Boulevard, Gardena, CA 90247. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 87720 (Sub-No. 118 TA), filed November 2, 1971. Applicant: BASS TRANSPORTATION CO., INC., Post Office Box 391, Flemington, NJ 08822. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals, naval stores, and tall oil products*, other than bulk, from Bay Minette, Ala., Pensacola, Fla., and Telogia, Fla., to points in Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Massachusetts, Rhode Island, Maine, Vermont, and New Hampshire; and (2) *materials, supplies, and equipment* incidental to the manufacture, production, sale, or distribution, of the aforementioned commodities other than in bulk, *rejected and returned shipments* in reverse direction. Restriction: Under contract with Tenneco, Inc., for 180 days. Supporting shipper: Tenneco Chemicals, Inc., Newport Division, Post Office Drawer 911, Pensacola, FL 32502. Send protests to: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations. 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 110589 (Sub-No. 8 TA), filed November 1, 1971. Applicant: J. E. LAMMERT TRANSFER, INC., 817 North Oak Street, Grand Island, Nebr. 68801. Applicant's representative: Donn K. Bieber, 220 East 11th Street, Schuyler, NE 68661. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from York, Nebr., to points in Maryland, New Jersey, New York, and Pennsylvania, for 180 days. Supporting shipper: Sunflower Beef Packers of Nebraska, Inc., 13th Street and Division Avenue, Post Office Box 355, York, NE 68467. Send protests to: Max H. Johnston, District Supervisor, 320 Federal Building and Courthouse, Interstate Commerce Commission, Bureau of Operations, Lincoln, Nebr. 68508.

No. MC 117386 (Sub-No. 6 TA), filed November 1, 1971. Applicant: LEE S. BURRIS, Post Office Box 227, Bradgate, IA 50520. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed and liquid feed supplements*, from the plantsite and facility of Farmland Industries, Inc., near Humboldt, Iowa to points in Minnesota, for 180 days. Supporting shipper: Farmland Industries, Inc., Post Office Box 7305, Kansas City, MO 64116. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 119493 (Sub-No. 83 TA), filed November 1, 1971. Applicant: MONKEM COMPANY, INC., Post Office Box 1196, West 20th Street Road, Joplin, MO 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry feed ingredients*, from the plant and warehouse facilities of Farmland Industries, Inc., and/or Farmers Chemical Co., located in Jasper County, Miss., to points in North Dakota, South Dakota, Kansas, Wisconsin, and Mississippi, for 180 days. Supporting shipper: Farmland Industries, Inc., 3315 North Oak, Kansas City, MO. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 119669 (Sub-No. 28 TA), filed November 2, 1971. Applicant: TEMPCO TRANSPORTATION, INC., 546 South 31 A., Post Office Box 886, Columbus, IN 47201. Applicant's representative: Donald McCameron (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles* distributed by meat packinghouses, as described in Appendix 1 to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, from Lexington, Ky., to points in Ohio, Pennsylvania, New York, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia, and Michigan, for 180 days. Supporting shipper: Armour & Co., Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. Send protests to: James W. Habermehl, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 802 Century Building, 36 South Pennsylvania Street, Indianapolis, IN 46204.

No. MC 119908 (Sub-No. 17 TA), filed November 1, 1971. Applicant: WESTERN LINES, INC., Post Office Box 1145, 3523 North McCarty, 77029, Houston, TX 77001. Applicant's representative: Paul E. Robertson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefinished plywood paneling*, from New Orleans, La., to points in Mississippi, Alabama, Tennessee, and Georgia, for 180 days. Supporting shipper: Plywood Panels, Inc. (Mr. J. D. Prince, President), Building 17, Napoleon and River, Post Office Box 15435, New Orleans, LA 70115. Send protests to: District Supervisor John C. Redus, Bureau of Operations, Interstate Commerce Commission, Post Office Box 61212, Houston, TX 77061. NOTE: Applicant does not intend to tack with existing authority.

No. MC 124025 (Sub-No. 1 TA), filed November 2, 1971. Applicant: GLASS TRUCKING COMPANY, Box 276, 200 North Chestnut, Newkirk, OK 74647. Applicant's representative: Marlin Glass (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Flour and mill feeds*, in bags, from Arkansas City, Kans., to Fulton and Paducah, Ky., for 180 days. Supporting shipper: Dixie-Portland Flour Mills, Inc., Post Office Box 698, Arkansas City, Kans. 67005. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 127274 (Sub-No. 33 TA), filed November 2, 1971. Applicant: SHERWOOD TRUCKING, INC., 1517 Hoyt Avenue, Post Office Box 2189, Muncie, IN 47302. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the plantsite of American Home Foods at La Porte, Ind., to points in Arkansas and Missouri, on and south of Interstate Highway 44, and Joplin, Mo., for 180 days. Supporting shipper: American Home Foods, Division of American Home Products Corp., 685 Third Avenue, New York 17, NY. Send protests to: Acting District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, Room 204, 345 West Wayne Street, Fort Wayne, IN 46802.

No. MC 128075 (Sub-No. 13 TA), filed October 29, 1971. Applicant: LEON JOHNSRUD, Post Office Box 447, 757 Second Street West, Cresco, IA 52136. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and packinghouse products* (except hides and commodities in bulk) as set forth in sections A and C, *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the facilities of the Rod Barnes Packing Co. and/or the Flanery Meat Co. at or near Huron,

S. Dak., to points in Georgia, restricted to traffic originating at named origin and destined to named destinations, for 150 days. Supporting shipper: Geo. A. Hormal & Co., Post Office Box 800, Austin, MN 55912. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operation, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 133741 (Sub-No: 10 TA), filed November 1, 1971. Applicant: OSBORNE TRUCKING CO., INC., 1008 Sierra Drive, Riverton, WY 82501. Applicant's representative: Robert S. Stauffer, 3539 Boston Road, Cheyenne, WY 82001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Montana to points in Colorado, for 180 days. Supporting shipper: The Denver Reserve Supply Co., 555 West 48th Avenue, Denver, CO 80216. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1006 Federal Building and Post Office, 100 East B Street, Casper, WY 82601.

No. MC 133928 (Sub-No. 5 TA), filed November 1, 1971. Applicant: ANTHONY H. OSTERKAMP, JR., doing business as OSTERKAMP TRUCKING, 764 North Cypress Street, Orange, CA 92666. Applicant's representative: Donald Murchison, Suite 400, Glendale Federal Building, 9454 Wilshire Boulevard, Beverly Hills, CA 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural field equipment, and harvesting equipment, parts of agricultural field equipment and harvesting equipment and materials and supplies* used in the harvesting and distribution of agricultural commodities, between points in California, on the one hand, and, on the other, points in Arizona, under contract with Interharvest, Inc., Salinas, Calif., for 180 days. Supporting shipper: Interharvest, Inc., Post Office Box 2115, Salinas, CA 93901. Send protests to: District Supervisor Philip Yallowitz, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 134286 (Sub-No. 15 TA) (Correction), filed October 15, 1971, published FEDERAL REGISTER, October 29, 1971, corrected and republished in part as corrected this issue. Applicant: ARCTIC TRANSPORT, INC., 1005 West South Omaha Bridge Road, Council Bluffs, IA 51501. Applicant's representative: Charles J. Kimball, 605 South 14th Street, Post Office Box 82028, Lincoln, NE 68501.

NOTE: The purpose of this partial republication is to include *South Carolina* as a destination point, which was inadvertently set forth as South Georgia in previous publication. The rest of the notice remains the same.

No. MC 134777 (Sub-No. 20 TA), filed November 1, 1971. Applicant: SOONER EXPRESS, INC., Post Office Box 219, Madill, OK 73446, Office: Sooner Building, Highway 70S. Applicant's representative: Dale Waymire (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, from Spencer and Hartley, Iowa; Schuyler, Nebr.; and Sioux Falls, S. Dak., to points in North Carolina, South Carolina, Virginia, and Tennessee (except Memphis, Tenn.), for 180 days. Supporting shipper: Spencer Foods, Inc., Spencer, Iowa. Send protests to: E. K. Willis, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 13C12, Federal Building, 1100 Commerce Street, Dallas, TX 75202.

No. MC 135196 (Sub-No. 1 TA), filed October 29, 1971. Applicant: ALTUS-HOLLIS TRANSPORT, INC., 815 West Broadway, Post Office Box 735, Altus, OK 73521. Applicant's representative: Jack B. Davis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, having a prior or subsequent movement in containers, beyond the area for which authority is herein requested. Service would include the performance of pickup and delivery in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, between points in Greer, Harmon, Jackson, Beckham, Washita, Custer, Dewey, Ellis, and Roger Mills Counties, Okla., and Childress, Collingsworth, Donley, and Hall Counties, Tex., for 180 days. Supporting shippers: Department of the Air Force, Altus Air Force Base, Okla. 73521; Columbia Export Packers, Inc., 19032 South Vermont Avenue, Torrance, CA 90502 and Smyth Worldwide Movers, Inc., 11616 Aurora Avenue North, Seattle, WA 98133. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395, Herring Plaza, Amarillo, TX 79101.

No. MC 135513 (Sub-No. 4 TA), filed October 22, 1971. Applicant: ECHO TRUCKING COMPANY, Post Office Drawer AY, Benson, AZ 85602. Applicant's representative: Earl Carroll, 363 North First Avenue, Phoenix, AZ 85003. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Copper cement*, from Tryone, N. Mex., to Morenci, Ariz., and Douglas, Ariz., under a continuing contract with Phelps Dodge Corp., for 180 days. Supporting shipper: Phelps Dodge Corp., Douglas, Ariz. 85607. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3427 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 136116 TA, filed November 1, 1971. Applicant: GENERAL TRANSPORTATION SERVICES, INC., 100 West Clarendon, Phoenix, AZ 85013. Applicant's representative: Robert R. Digby, 217 Luhrs Tower, Phoenix, Ariz. 85003. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products and articles distributed by meat packinghouses*, as described by the Commission, from Wallula, Wash., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, for 180 days. Supporting shipper: Cudahy Co., 100 West Clarendon, Phoenix, AZ 85013. Send protests to: Andrew V. Baylor, District Superivisor, Interstate Commerce Commission, Bureau of Operations, Room 3427 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 136117 TA, filed October 29, 1971. Applicant: BERNARD ANDRE, 2702 West First Street, North Platte, NE 69101. Applicant's representative: Richard A. Dudden, 121 East Second Street, Ogallala, NE 69153. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bagged and boxed processed sugar*, from Torrington, Wyo., and Ovid, Colo. to Beresford, Brookings, Mitchell, Sioux Falls, Watertown, and Yankton, S. Dak., for the account of Reed Sales Co., for 180 days. Supporting shipper: Irving C. Edmeier, president, Reed Sales Co., 110 Hemlock Street, Beresford, SD 57004. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building and Courthouse, Lincoln, Nebr. 68508.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16670 Filed 11-15-71;8:49 am]

[Notice 396]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 10, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the

Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2860 (Sub-No. 106 TA), filed November 5, 1970. Applicant: NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, NJ 08360. Applicant's representative: Addison Hand (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Prepared animal food,* from the plantsite and/or warehouse facilities of Lipton Pet Foods at Golden Meadow, Lockport or New Orleans, La., to points in Florida, for 180 days. Supporting shipper: Lipton Pet Foods, Inc., Box 89-209 New Boston Street, Woburn, MA 01801. Send protests to: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 22254 (Sub-No. 63 TA), filed November 4, 1971. Applicant: TRANS-AMERICAN VAN SERVICE, INC., 7540 South Western Avenue, Chicago, IL 60620. Applicant's representative: Anthony T. Thomas, 1811 West 21st Street, Chicago, IL 60608. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Carpet padding and rubber sheeting,* from Dyersburg, Tenn., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Allen Industries, Inc., 17515 West Nine Mile Road, Southfield, MI 48075. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 22254 (Sub-No. 64 TA), filed November 5, 1971. Applicant: TRANS-AMERICAN VAN SERVICE, INC., 7540 South Western Avenue, Chicago, IL 60620. Applicant's representative: Anthony T. Thomas, 1811 West 21st Street, Chicago, IL 60608. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Uncrated pianos and piano benches,* between the plantsite of Kohler & Campbell, Inc., at or near Granite Falls, N.C., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Kohler & Campbell, Inc., Granite Falls, N.C. 28630. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 70313 (Sub-No. 2 TA), filed November 3, 1971. Applicant: MYERS CONTRACT TRUCKING, INC., 1220 Roosevelt Avenue, Post Office Box 1621, York, PA 17405. Applicant's representative: Charles E. Creager, 816 Easley Street, Silver Spring, MD 20910. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such general commodities* as is dealt in by chain manufacturers, from York, Pa., to points in Colorado, Georgia, Illinois, and Texas, for 180 days. Supporting shipper: American Chain & Cable Co., Chain Division, 454 East Princess Street, York, PA 17403. Send protests to: Robert W. Ritenour, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 508 Federal Building, Post Office Box 869, Harrisburg, PA 17108.

No. MC 99776 (Sub-No. 8 TA), filed November 4, 1971. Applicant: BUCKNER TRUCKING, INC., 8802 Liberty Road, Houston, TX 77028. Applicant's representative: J. G. Dail, Jr., 1111 E Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill products, and wood products,* from points in Louisiana, to points in Texas, Oklahoma, Kansas, Missouri, Arkansas, Mississippi, Tennessee, and Alabama, for 180 days. NOTE: Applicant does not intend to tack with existing authority. Supporting shippers: Williamette Industries, Inc. (Homer C. Davenport, traffic manager), Post Office Box 907, Albany, NY; Hunt Lumber Co., Inc. (Keith O'Kelley, controller), 207 West Carolina Avenue, Ruston, LA 71270. Send protests to: District Supervisor John C. Redus, Interstate Commerce Commission, Bureau of Operations, Post Office Box 61212, Houston, TX 77061.

No. MC 110420 (Sub-No. 645 TA), filed November 4, 1971. Applicant: QUALITY CARRIERS, INC., Post Office Box 186, Pleasant Prairie, WI 53158, Office: I-94 County Highway C, Bristol, Kenosha County, WI 53104. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid meat protein,* in bulk, from Madison and Juneau, Wis., to East Syracuse, N.Y., for 180 days. Supporting shipper: Milbrew, Inc., 6101 North Teutonia Avenue, Milwaukee, WI 53209 (Melvin Bernstein, vice president). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 111170 (Sub-No. 172 TA), filed November 3, 1971. Applicant: WHEELING PIPE LINE, INC., Post Office Box 1718, 2811 North West Avenue, El Dorado, AR 71730. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Condensate* (pure treated water), in bulk, from Pine Bluff, Ark., to Valliant, Okla., for 180 days. Supporting shipper: Brown & Root, Inc., Post Office Box 388, Valliant, OK 74764. Send protests to: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 111170 (Sub-No. 173 TA), filed November 4, 1971. Applicant: WHEELING PIPE LINE, INC., Post Office Box 1718, 2811 North West Avenue, El Dorado, AR 71730. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bromine,* in bulk, from Magnolia, Ark., to Freeport, Tex., for 180 days. Supporting shipper: The Dow Chemical Co., Freeport, Tex. 77541. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 111401 (Sub-No. 352 TA), filed November 4, 1971. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Post Office Box 632, Enid, OK 73701. Applicant's representative: Victor R. Comstock (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Printing ink,* in bulk, in tank vehicles, from Tulsa, Okla., to Loganstown, Ind., for 180 days. Supporting shipper: J. Bolzak, Director of Traffic, Sun Chemical Corp., 631 Central Avenue, Carlstadt, NJ 07072. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 125985 (Sub-No. 10 TA), filed November 5, 1971. Applicant: AUTO DRIVEAWAY COMPANY, 343 South Dearborn Street, Chicago, IL 60604. Applicant's representative: David L. Steinhagen (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Recreational vehicles, motor homes* (not mobile homes) in driveway service between points in California, and between points in California and points in the United States (except Hawaii), for 180 days. Supporting shipper: Jensen Marine Co., Costa Mesa, Calif.; R. V. Industries, Anaheim, Calif. Send protests to: William J. Gray, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 128383 (Sub-No. 11 TA), filed November 3, 1971. Applicant: PINTO TRUCKING SERVICE, INC., 1219 Morris Street, Philadelphia, PA 19148. Applicant's representative: James W. Patterson, 123 South Broad Street, Philadelphia, PA 19109. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities,* except commodities in bulk, between points in Allegany, Baltimore City, Calvert, Caroline, Charles, Dorchester, Garrett, Kent, Queen Annes, St. Mary's, Somerset, Talbot, Washington, Wicomico, and Worcester Counties, Md.; Delaware, Loudoun, Prince William, Hanover, Henrico, Chesterfield, Isle of Wight, Nansemond, York, Roanoke, Franklin, Montgomery, Craig, Bedford, Botetourt, Accomack, and Northampton Counties, Va., and the cities of Richmond, Norfolk, Portsmouth,

Virginia Beach, Chesapeake, Newport News, Hampton, Salem, and Roanoke, Va., on the one hand, and, on the other, Dulles International Airport, Fairfax and Loudoun Counties, Va., Washington National Airport, Gravelly Point, Va., Friendship International Airport, Anne Arundel County, Md., Philadelphia International Airport, Philadelphia, Pa., Newark Airport, Newark, N.J., La Guardia Airport and John F. Kennedy International Airport, New York, N.Y., for 180 days. Supporting shipper: American Airlines Freight System, Friendship International Airport, Baltimore, Md. 21240.; Pan American World Airways, Friendship International Airport, Baltimore, Md. 21240; Trans World Airlines, Inc., 605 Third Avenue, New York, NY 10016; Northrop Page Communications Engineers, 3300 Whitehaven Street NW., Washington, DC 20007; Wall Shipping Co., Inc., Post Office Box 17145, Air Cargo Building, Dulles International Airport, Washington, D.C. 20014; Bor-Air Freight Co., Inc., 351 West 38th Street, New York, NY 10018. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 133854 (Sub-No. 3 TA), filed November 4, 1971. Applicant: KOYLE REASNOR AND LEO REASNOR, a partnership, doing business as REASNOR CONSTRUCTION CO., Post Office Box 148, Kinta, OK 74552. Applicant's representative: Rufus H. Lawson, 106 Bixler Building, 2400 Northwest 23d Street, Oklahoma City, OK. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, from the mine site of Kerr-McGee Corp., near Stigler, Okla., to Sanbois Creek, 3 miles west of Keota, Okla. Restricted to the transportation of traffic having a subsequent movement by water, for 180 days. Supporting shipper: Kerr-McGee Corp., Ray F. Fischer, transportation manager, Kerr-McGee Building, Oklahoma City, Okla. 73102. Send protests to: O. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 240 Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 135236 (Sub-No. 2 TA), filed November 3, 1971. Applicant: BILLY R. ALMAND, doing business as ALMAND TRUCKING CO., Route 2, Box 50, Keithville, LA 71047. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing granules*, dry in bulk, from points in Pulaski County, Ark., to Shreveport, La., for 180 days. Supporting shipper: Bird & Son, Inc., Aeor Drive, Shreveport, La. 71107. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room T-4009 Federal Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 136120 TA, filed November 3, 1971. Applicant: BUFFORD McCOLLUM, doing business as MIDWEST SPECIALIZED HAULING, 8508 East 111th Street, Kansas City, MO 64134. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rubber pneumatic tires*, which are 10 feet or more in diameter; and (2) *rubber pneumatic tires*, when moving in mixed loads with (1) above, from the plantsite of The Goodyear Tire and Rubber Co. located at or near Topeka, Kans., to points in the United States (except Hawaii), for 150 days. Supporting shipper: The Goodyear Tire and Rubber Co., Akron, Ohio. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 136121 TA, filed November 4, 1971. Applicant: MINYARD TRUCKING COMPANY, INC., Post Office Box 45388-8740 East 46th Street, Tulsa, OK 74145. Applicant's representative: Joe Brisco (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bedsprings, bedstead rails, cots and cot frames, unupholstered day beds, bed frames, springs and spring assemblies, metal sleeper fixtures and materials* used in the manufacture of the foreging commodities, from Carthage, Mo., to points in Colorado and Arizona, for 180 days. Supporting shipper: Frank E. Ford, Jr., V. P. Leggett & Platt, Inc., 600 West Mound Street, Carthage, MO 64836. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 136122 TA, filed November 4, 1971. Applicant: FILM DELIVERY SERVICE, INC., 216 North Avenue Shopping Center, Albertville, Ala. 35950. Applicant's representatives: Bishop and Carlton, 325-29 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motion picture films and prints and advertising and promotional materials incidental thereto*, between Atlanta, Ga., on the one hand, and, on the other, Albertville, Decatur, and Huntsville, Ala. Restriction: The operations sought herein are to be limited to a transportation service to be performed under continuing contract with Marshall Drive-In Theatre, Inc., Princess Theatre, Inc., Bowline Drive-In Theatre, Inc., and 72 Amusement Co., Inc., for 180 days. Supporting shippers: Lyrics Amusement Co., Inc., Huntsville, Ala.; Acme Investment, Inc., Huntsville, Ala.; 72 Amusement Co., Inc., Huntsville, Ala.; Marshall Drive-In Theatre, Inc., Decatur, Ala.; Princess Theatre, Inc., Decatur, Ala.; Bowline Drive-In Theatre, Inc., Decatur, Ala. Send protests to: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814, 2121 Building, Birmingham, Ala. 35203.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16668 Filed 11-15-71;8:49 am]

[Notice 781]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 9, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72973. By order of November 5, 1971, the Motor Carrier Board approved the transfer to Premium Transportation Co., a corporation, Philadelphia, Pa., of the operating rights in certificate No. MC-96083 issued October 20, 1966, to Jacob Kleger and Rose Kleger, a partnership, Philadelphia, Pa., authorizing the transportation of household goods between Philadelphia, Pa., on the one hand, and, on the other, New York, N.Y., and points in New Jersey. Herbert Somerson, 2032 Land Title Building, Broad and Chestnut Streets, Philadelphia, PA 19110, attorney for applicants.

No. MC-FC-73068. By order of November 5, 1971, the Motor Carrier Board approved the transfer to Genova Express Lines, Inc., Williamstown, N.J., of the operating rights in certificate No. MC-381 issued September 3, 1970, to Joseph S. Genova, doing business as Genova Express Lines, Williamstown, N.J., authorizing the transportation of general commodities, with usual exceptions, between Philadelphia, Pa., and Williamstown, N.J., serving all intermediate points and the off-route points of Almonesson and Sicklerville, N.J., and between Hammonton, N.J., and Philadelphia, Pa., serving all intermediate points and off-route points within 5 miles of Hammonton, N.J. George A. Olsen, Registered Practitioner, 69 Tonnele Avenue, Jersey City, NJ 07306, representative for applicants.

No. MC-FC-73109. By order of November 5, 1971, the Motor Carrier Board approved the transfer to Dale Deliveries—Matisoff Express, Inc., New York, N.Y., of certificate No. MC 127312 issued April 11, 1966, to Matisoff Express,

Inc., New York, N.Y., authorizing the transportation of: General commodities, with the usual exceptions, from New York, N.Y., to specified counties in New Jersey. Morris Honig, attorney, 150 Broadway, New York, NY 10038, Michael Strauss, attorney, 103 Park Avenue, New York, NY 10017.

No. MC–FC–73198. By order of November 5, 1971, the Motor Carrier Board approved the transfer to Columbia Motor Freight, Inc., New Haven, Conn., of the operating rights in Permits Nos. MC–113627 and MC–113627 (Sub-No. 1), issued March 21, 1958, and January 23, 1969, respectively, to Barnett Motor Transportation, Inc., New Haven, Conn., authorizing the transportation of precast concrete facing slabs and joists, and materials and supplies, from New Haven, Conn., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Ohio, and the District of Columbia; and from New Haven and Newington, Conn., to points in Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont, limited to the accounts of Plasticrete Corp. and Consolidated Precast, Inc.; concrete pipe, and materials and supplies used in the installation thereof, except steel, from New Haven, and Newington, Conn., to points described immediately above; and concrete pipe, steel forms, and materials and supplies used in the installation of concrete pipe, between Rochester and Buffalo, N.Y., Newington and New Haven, Conn., East Brunswick and Wharton, N.J., and Perryman and Branchville, Md., limited to the account of International Pipe and Ceramics Corp. John E. Fay, 342 North Main Street, West Hartford, Conn. 06117, attorney for applicants.

No. MC–FC–73241. By order of November 5, 1971, the Motor Carrier Board approved the transfer to DuBois Trucking, Inc., Montpelier, Vt., of the operating rights in certificate Nos. MC–119808 (Sub-No. 2) and MC–119808 (Sub-No. 5) and permit No. MC–129876 (Sub-No. 3) issued November 16, 1961, June 21, 1967, and September 20, 1971, respectively to Robert F. DuBois, doing business as DuBois Trucking, Montpelier, Vt., authorizing the transportation of limestone and marble, in dump vehicles, from specified points in Vermont to points in New Hampshire, Virginia, Massachusetts, Connecticut, Rhode Island, New Jersey, Pennsylvania, Delaware, Maryland, Ohio, Washington, D.C., and described areas in Maine and New York, and petroleum products from South Portland, Me., to Berlin, Vt. John P. Monte, 61 Summer Street, Barree, VT 05641, attorney for applicants.

No. MC–FC–73269. By order of November 5, 1971, the Motor Carrier Board approved the transfer to Butler-Jones Air Freight, Inc., Salisbury, Md., of certificates Nos. MC–12655 (Sub-No. 1) and MC–126255 (Sub-No. 2), issued February 17, 1970, and July 16, 1971, to Walter M. Butler, Jr., Salisbury, Md., authorizing the transportation of: General commodities, with the usual exceptions, between specified points and airports in Maryland, and Virginia, in a radial movement. Russell S. Bernhard, attorney, 1625 K Street, NW., Washington, DC 20006.

No. MC–FC–73276. By order of November 5, 1971, the Motor Carrier Board approved the transfer to George Piazza, doing business as Staats Express, Rensselaer, N.Y., of certificate Nos. MC–58944, MC–58944 (Sub-No. 1) and MC–58944 (Sub-No. 2), issued April 16, 1942, August 18, 1949, and March 6, 1967, to George Piazza and Frank Piazza, doing business as Staats Express, Rensselaer, N.Y., authorizing the transportation of: General commodities, with the usual exceptions between specified points and areas in New York. Vincent D'Anza, attorney, 63 Wisconsin Avenue, Delmar, NY.

No. MC–FC–73277. By order of November 5, 1971, the Motor Carrier Board approved the transfer to Tennessee Trailblazers, a corporation, Nashville, Tenn., of the operating rights in certificate No. MC–5038 issued December 13, 1962, to J. T. Fuqua, doing business as Fuqua Bus Lines, Bowling Green, Ky., authorizing the transportation of passengers and their baggage, and express and newspapers, in the same vehicle as passengers, between Bowling Green, Ky., and Owensboro, Ky., serving all intermediate points. Joe B. Orr, 1010 College Street, Bowling Green, KY 42101, attorney for applicants.

No. MC–FC–73279. By order of November 5, 1971, the Motor Carrier Board approved the transfer to Anna Gasperetti and John B. Gasperetti, Jr., a partnership, doing business as The Tri-C Transfer and Storage, Walsenburg, Colo., of certificate No. MC–133213, issued May 7, 1970, to Anna Gasperetti, doing business as The Tri-C Transfer and Storage, Walsenburg, Colo., authorizing the transportation of: General commodities, except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment, between Walsenburg, Colo., and Gardner, Colo., serving all intermediate points, and the off-route point of Red Wing, Colo., over specified routes; and general commodities, except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment, between Walsenburg, Colo., on the one hand, and, on the other, points in Huerfano County, Colo. Ernest D. Salm, 3846 Evans Street, Los Angeles, CA 90027, representative for applicants.

No. MC–FC–73284. By order of November 8, 1971, the Motor Carrier Board approved the transfer to Donald J. Mallatt, doing business as Hammer's DX, Galena, Kans., of the operating rights in certificate No. MC–119161 issued March 15, 1968, to Jesse's Truck Stop, Inc., Route 5, Box 366, Joplin, MO 64801, authorizing the transportation of wrecked or disabled motor vehicles, by use of wrecker equipment only, and replacement vehicles for wrecked or disabled motor vehicles, between points in Kansas, Missouri, and Oklahoma. Paul Armstrong, Post Office Box 45, Columbus, KS 66725, attorney for transferee.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–16667 Filed 11–15–71;8:49 am]

[Notice 782]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 11, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–73196. By order of November 10, 1971, the Motor Carrier Board approved the transfer to Charro Trucking Corp., Garden City, Long Island, N.Y., of the operating rights in permits No. MC–129667 (Sub-No. 1) and MC–129667 (Sub-No. 2) issued October 8, 1968 and April 16, 1969 respectively to Loni-Jo Trucking Corp., Garden City, Long Island, N.Y., authorizing the transportation of such commodities as are dealt in by retail supermarkets, and equipment and supplies used in the operation thereof, between the retail supermarket stores and facilities of Waldbaum, Inc., and/or the suppliers of such stores, in New York and New Jersey, and between points in the New York, N.Y., commercial zone, on the one hand, and, on the other, storage facilities of Waldbaum, Inc., in Garden City, N.Y. William Biederman, 280 Broadway, New York, NY 10007, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–16668 Filed 11–15–71;8:49 am]

[Notice 782–A]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 11, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of

service of the order. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72974. By order of October 12, 1971, Division 3, acting as an Appellate Division, approved the transfer to Commercial Carrier, Inc., Charleston, W. Va., of a portion of the operating rights in certificate No. MC-108392 (Sub-No. 2) issued October 19, 1964, to Distributor Service Co., Inc., Charleston, W. Va., authorizing the transportation of malt beverages, in containers, from Detroit, Mich., to Charleston, W. Va., Philip J. Graziani, 710 Commerce Square, Charleston, W. Va. 25301, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16669 Filed 11-15-71;8:49 am]

[Suspension Docket No. 8688]

STABILIZATION OF RATES AND CHARGES

Order. At a general session of the Interstate Commerce Commission held at its office in Washington, D.C., on the 8th day of November 1971.

The President of the United States, by virtue of the authority vested in him by the Constitution and statutes of the United States, including the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799), as amended, issued Executive Order 11627, dated October 15, 1971, providing for the continuation of the stabilization of prices, rents, wages, and salaries at levels not greater than the highest of those pertaining to a substantial volume of actual transactions by each individual, business, firm or other entity of any kind during the 30-day period ending August 14, 1971, for like or similar commodities or services, pending action by competent authority pursuant to the provisions of such order. The Executive order also provides, inter alia, that no person shall charge, assess, or receive, directly or indirectly, in any transaction, prices in any form higher than those permitted therein.

It appearing, that there have been filed with the Interstate Commerce Commission schedules setting forth new increased rates, fares and charges and new rules, regulations, and practices having the effect of increasing rates, fares, and charges, applicable on interstate or foreign commerce, which are published to become effective November 14, 1971, and later, or which were published to become effective prior to November 14, 1971, and were suspended to and including November 13, 1971, by orders entered in suspension Dockets Nos. 8664, as amended, 8664 (Sub-No. 1), as amended, 8664 (Sub-No. 2) or 8664 (Sub-No. 3) and which, as a result of such orders, are to become effective November 14, 1971;

And it further appearing, that certain of the said schedules would, if permitted to become effective, result in rates, fares, charges, rules, regulations or practices which would be in violation of the Executive order described above; and good cause appearing therefor:

It is ordered, That the operation of the schedules described in the preceding paragraph be and it hereby is suspended, and that the use thereof on interstate and foreign commerce be deferred for an indefinite period pending further order of this Commission.

It is further ordered, That neither the schedules hereby suspended nor those sought to be altered thereby shall be changed until further order of this Commission, except that rates, fares, charges, rules, regulations, and practices may be changed if such change does not result in an increase above the highest level pertaining to a substantial volume of actual transactions during the 30-day period ending August 14, 1971, for like or similar commodities or services.

It is further ordered, That all carriers, respondents to this order, be, and they are hereby, directed to file with this Commission supplements containing notice of suspension of all increased rates, fares, charges, rules, regulations, and practices which are subject to this order.

It is further ordered, That schedules setting forth new increased rates, fares, and charges, and new rules, regulations and practices having the effect of increasing rates, fares, and charges, the operation of which has been suspended and investigation instituted under the provisions of the Interstate Commerce Act, are not subject to the terms of this order.

And it is further ordered, That a copy of this order be posted in the Office of the Secretary and in the Section of Tariffs of the Interstate Commerce Commission and that a copy be delivered to the Director, Office of Federal Register, for publication in the FEDERAL REGISTER and that all carriers subject to the jurisdiction of the Interstate Commerce Commission be, and they are hereby, made respondents to this order.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16674 Filed 11-15-71;8:50 am]

PAY BOARD

[Order No. 2]

CONSTRUCTION INDUSTRY STABILIZATION COMMITTEE

Authorization Regarding Wages, Salaries, and Other Economic Adjustments

NOVEMBER 13, 1971.

1. The Pay Board authorizes the Construction Industry Stabilization Committee, effective November 14, 1971, to administer the policies of the Pay Board with respect to wages and salaries and other economic adjustments in the building and construction industry. In other respects, Executive Order No. 11588 of March 29, 1971 remains in effect.

2. All wages and salaries and other economic adjustments contained in collective bargaining agreements, whether scheduled to take effect in the period from August 16 through November 13, 1971, or scheduled to take effect after November 13, 1971 (whether or not previously approved by the Committee), now require the approval of the Construction Industry Stabilization Committee regardless of the number of employees affected.

3. The Pay Board shall prescribe the form of procedures to be followed by the Construction Industry Stabilization Committee to assure conformity with the announced policies of the Pay Board.

4. This order shall be effective at 12:01 a.m., November 14, 1971.

By direction of the Board.

GEORGE H. BOLDT,
Chairman of the Pay Board.

[FR Doc.71-16802 Filed 11-15-71;11:31 am]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during November.

3 CFR

Page

PROCLAMATIONS:
- 3279 (amended by Proc. 4092) - 21397
- 4091 - 21329
- 4092 - 21397
- 4093 - 21401
- 4094 - 21805

EXECUTIVE ORDERS:
- Nov. 9, 1871 (see PLO 5144) - 21036
- July 2, 1910 (revoked in part by PLO 5144) - 21036
- June 16, 1911 (revoked in part by PLO 5144) - 21036
- Mar. 21, 1917 (revoked in part by PLO 5144) - 21036
- Dec. 9, 1926 (see PLO 5144) - 21036
- 11627 (amended by EO 11630) - 21023
- 11630 - 21023
- 11631 - 21575

5 CFR

213 - 20931, 21577, 21665
230 - 21180

6 CFR

101 - 21788
201 - 21790
300 - 21792

7 CFR

20 - 21577
601 - 21403
722 - 21751
777 - 21256
796 - 21277
815 - 21277
874 - 21449
906 - 21403
907 - 21119, 21577
908 - 21119, 21578
910 - 20932, 21331, 21751, 21817
912 - 21331, 21752
913 - 21331, 21752
926 - 21025
966 - 21449
1036 - 21578
1823 - 21666
1890p - 21450

PROPOSED RULES:
- 724 - 21208
- 780 - 21291
- 913 - 21522
- 928 - 20980
- 929 - 21411
- 930 - 21818
- 932 - 21059
- 982 - 21411
- 984 - 21291
- 989 - 20981, 21599
- 1030 - 20981, 21413
- 1049 - 20981
- 1124 - 21819
- 1464 - 21209
- 1701 - 21522

8 CFR

214 - 21277

9 CFR

Page

75 - 21755
76 - 20932, 21181
92 - 20932
101 - 21579
102 - 21579
112 - 21579
113 - 21579
114 - 21579
117 - 21579
120 - 21579
132 - 21579

PROPOSED RULES:
- 11 - 21318
- 76 - 21652
- 113 - 21058
- 201 - 21683
- 309 - 21414
- 318 - 20984

10 CFR

50 - 21579
140 - 21580

12 CFR

11 - 21451
210 - 21403
222 - 21666
225 - 21666, 21807, 21808
545 - 21025
563 - 21667
572 - 21667

PROPOSED RULES:
- 269 - 21212
- 291 - 21212
- 545 - 21363
- 546 - 21066
- 563 - 21067

13 CFR

120 - 21332
121 - 21183

14 CFR

23 - 21278
25 - 21278
27 - 21278
29 - 21278
39 - 21729, 21581, 21668, 21752
65 - 21280
71 - 21029, 21030, 21182, 21280–21282, 21403, 21582–21584, 21670, 21780S
75 - 21030, 21584–21586, 21670, 21671
95 - 21671
97 - 21282, 21673
103 - 21183
241 - 20933
1204 - 21753

PROPOSED RULES:
- 39 - 21064, 21210, 21833
- 47 - 21414
- 71 - 21064, 21065, 21211, 21293, 21415, 21416, 21600, 21601, 21696, 21697, 21763
- 225 - 21601
- 245 - 21361
- 1245 - 21068

16 CFR

Page

13 - 21586
251 - 21517
410 - 21518

PROPOSED RULES:
- 436 - 21607

17 CFR

240 - 21178
249 - 21178

PROPOSED RULES:
- 240 - 21625

19 CFR

1 - 21335
4 - 21025
16 - 21336

20 CFR

PROPOSED RULES:
- 404 - 21360, 21606

21 CFR

3 - 21587
121 - 21588
130 - 21026
135 - 21404
135a - 21404
135b - 21404, 21405, 21808
135c - 21184, 21404, 21452, 21809
135e - 20938, 21405
135g - 21186
146c - 21186
146d - 21183
146e - 21188
148i - 20938
191 - 21809
308 - 21336
420 - 21189, 21190

PROPOSED RULES:
- 3 - 21688
- 27 - 20985
- 31 - 20985
- 148i - 20985
- 191 - 20985, 20986
- 295 - 21832
- 311 - 21057
- 312 - 21057

22 CFR

42 - 20939
121 - 20939
123 - 20940
124 - 20940
125 - 20941
126 - 20942
201 - 21190

24 CFR

242 - 21674
1914 - 20942, 21408, 21589
1915 - 20943, 21409, 21590

PROPOSED RULES:
- 1710 - 21043

LIST OF FEDERAL REGISTER PAGES AND DATES—NOVEMBER

Pages	*Date*
20925–21016	Nov. 2
21017–21112	3
21113–21270	4
21271–21321	5
21323–21391	6
21393–21442	Nov. 9
21443–21567	10
21569–21658	11
21659–21745	12
21747–21799	13
21801–21860	16